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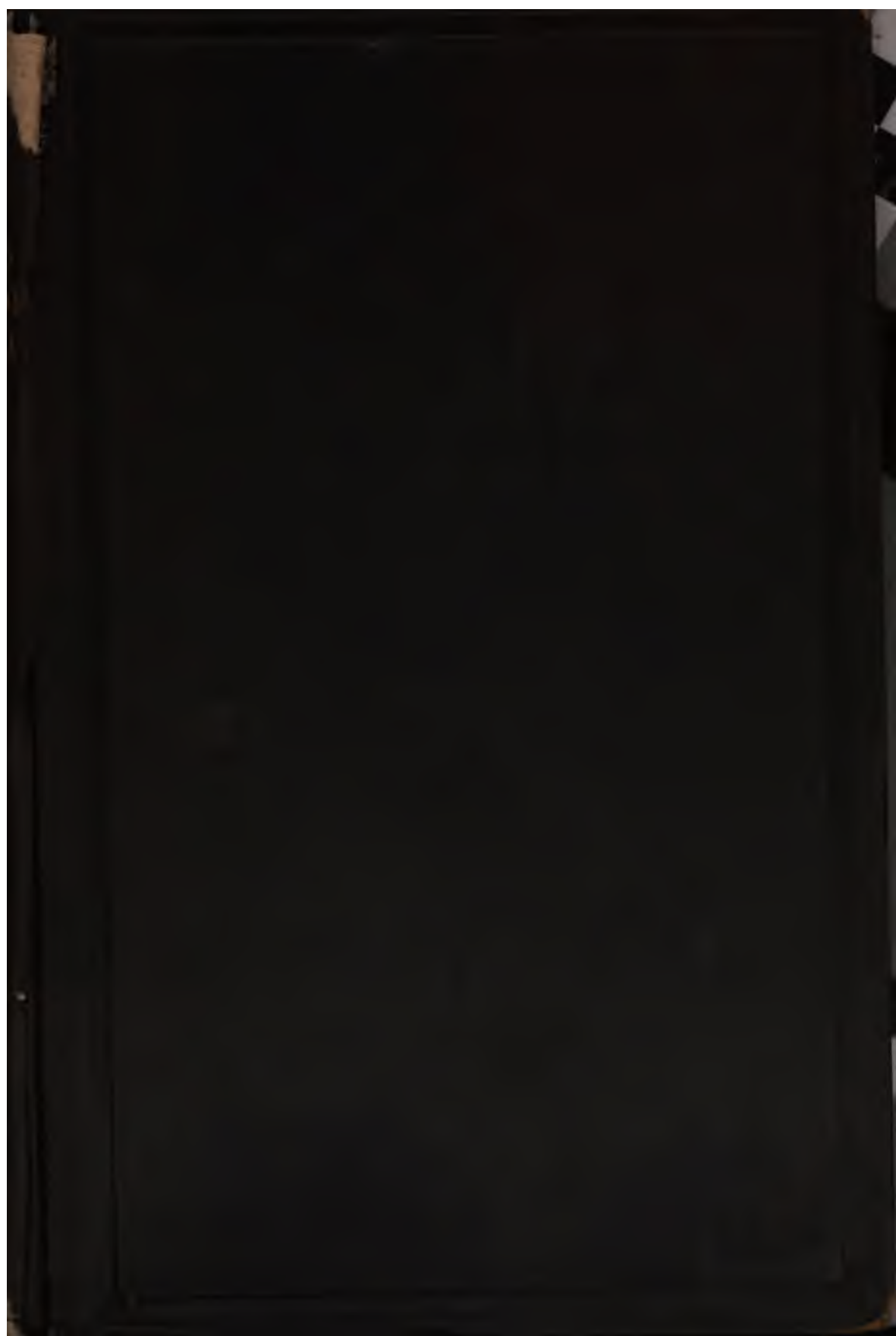
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John S. Doyle
1879

John L. Lipp
1849

LAWS OF THE STATE OF CALIFORNIA. *Laws*
'statutes, etc.'

RELATIVE TO

Railroads and Railroad Corporations,

WHICH WERE IN FORCE JANUARY 1, 1879,

TOGETHER WITH A

COMPILATION OF THE TITLES OF ALL ACTS AND RESOLUTIONS RELATIVE
TO RAILROADS AND RAILROAD CORPORATIONS, PASSED BY THE
LEGISLATURE OF THE STATE OF CALIFORNIA, 1850-1878.



SACRAMENTO:

STATE OFFICE : : : F. P. THOMPSON, SUPT. STATE PRINTING.

1879.

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ERRATA.

Page 106—at head of page, insert “Division First.”

Page 146—line two, read “Personal or movable property.”

Page 146—after line eleven, insert “Chapter II. Shipping.”

Page 149—at head of page, insert “Part IV. Acquisition of property.”

Page 149—after line eleven, insert “Division Third.”

Page 181—Section 355 should come under Chapter XII, and immediately precede Section 365.

Page 181—after line fifteen, and before Title IX, insert “Part I. Of Crimes and Punishments.”

Page 181—in line seventeen, read “of crimes” instead “of claims” etc.

Page 240—Act 109, “Compare Act passed” etc., should read “Repealed by Act passed” etc.

INTRODUCTORY NOTE.

Among the objects sought to be attained by the following compilation of the statutes is that of presenting, in a convenient form for reference, the general and special laws in force, relating to railroad corporations.

The general railroad incorporation law of eighteen hundred and sixty-one, continued in force by operation of section two hundred and eighty-eight of the Civil Code; the general incorporation law, and the general railroad incorporation law, of the Civil Code, which took effect January first, eighteen hundred and seventy-three, together with extracts from the four Codes, relating to the subject of railroad and transportation companies, are herewith presented.

The general and special Acts, the titles of which are to be found in Appendix A, with notes, showing when amended, supplemented or repealed, together with the Resolutions relative to railroads, to be found in Appendix B, will be of service in showing the course of legislation upon the subjects to which they relate.

For many of the notes to the State Constitution and statutes, herein contained, credit is due to the "Codes and Statutes of California," by Theodore H. Hittell, Esq.

CONSTITUTION OF THE STATE OF CALIFORNIA.

ADOPTED BY THE CONVENTION, TENTH OCTOBER, EIGHTEEN HUNDRED AND FORTY-NINE; RATIFIED BY THE PEOPLE, THIRTEENTH NOVEMBER, EIGHTEEN HUNDRED AND FORTY-NINE; PROCLAIMED TWENTIETH DECEMBER, EIGHTEEN HUNDRED AND FORTY-NINE; AMENDED FOURTH NOVEMBER, EIGHTEEN HUNDRED AND FIFTY-SIX, AND THIRD SEPTEMBER, EIGHTEEN HUNDRED AND SIXTY-TWO.

[Those sections and parts of sections in SMALL CAPITALS, and those foot-note decisions in *italics*, bear upon railroad corporations and the laws governing them.]

Preamble.

We, the people of California, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

Inalienable rights.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness."

Popular government.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

Jury trial.

SEC. 3. The right of trial by jury shall be secured to all, and

α. The "Sunday Law" of April 10, 1858, held to be in violation of this section. (Ex parte Newman, 9 Cal. 502.)

The "Sunday Law" of May 20, 1861, held to be not in violation of this section; and the dissenting opinion of Justice Field in Ex parte Newman adopted. (Ex parte Andrews, 18 Cal. 678.)

remain inviolate forever; but a jury trial may be waived by the parties, in all civil cases, in the manner to be prescribed by law.*

Religious worship, and liberty of conscience.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State;† and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief;‡ but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Habeas corpus.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require its suspension.§

Excessive bail, fines, and punishments.

SEC. 6. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted; nor shall witnesses be unreasonably detained.

a. The right to a jury trial cannot be waived by implication. (Smith vs. Pollock, 2 Cal. 92.)
A reference to ascertain the damages sustained by reason of an injunction does not violate this section: the party availing himself of the stringent and extraordinary process of injunction is considered as waiving his constitutional right to a jury trial. (Russell vs. Elliott, 2 Cal. 245.)
The words "prescribed by law" look to actual legislation upon the subject, and cannot be extended to a permission of the exercise of the power to others than the Legislature. (Exline vs. Smith, 5 Cal. 112.)

The language of this provision was used with reference to the right as it exists at common law. The right cannot be claimed in equity cases unless an issue of fact be framed. (Koppikus vs. State Capitol Commissioners, 16 Cal. 248.)

Failure on the part of a party to appear on the trial of a civil cause operates as a waiver of a jury trial under the one hundred and seventy-ninth section of the practice Act; but if a jury is called, it must consist of twelve persons: a less number does not constitute a legal jury without express consent. (Gillespie vs. Benson, 18 Cal. 409.)

A Court has no power to send an ordinary suit at law to a referee for trial against the objection of either party; and this whether the suit involves the examination of a long account or not. Our statute as to referring cases (except in cases of consent) applies solely to equity causes. (Grim vs. Norris, 19 Cal. 140.)

b. The "Sunday Law" of 1858 held to violate this provision on the ground that it involved the enforced observance of a day held sacred by a religious sect, and was a discrimination in favor of that sect and a violation of the religious freedom of others. (Ex parte Newman, 9 Cal. 502.)

The "Sunday Law" of 1861 (substantially similar to that of 1858) held purely a civil regulation, not designed to subserve any religious purpose. Held further, that the Constitution does not make void legislation, the effect of which is to promote religion or even advance the interests of a sect or class of religionists. (Ex parte Andrews, 18 Cal. 678.)

c. A witness is competent without respect to his religious sentiments or conviction—the law leaving his competency to legal sanctions or at least to considerations independent of religious sentiments or convictions. (Fuller vs. Fuller, 17 Cal. 605.)

d. The writ of habeas corpus should not issue to run out of the county, unless for good cause shown, as the absence, disability, or refusal of the local Judge to act. The mere caprice of the prisoner ought not to prevail against the interests of the people and public convenience. (Ex parte Ellis, 11 Cal. 222.)

The issuance of the writ is not obligatory upon the Supreme Court in term time, but rests in the sound legal discretion of the Court, though its allowance may be obligatory upon the Judges in their individual capacities. (Id.)

All offenses bailable—one exception.

SEC. 7. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great.^a

Personal rights and rights of property.

SEC. 8. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petty larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury;^b and, in any trial, in any Court whatever, the party accused shall be allowed to appear and defend, in person and with counsel, as in civil actions.^c No person shall be subject to be twice put in jeopardy for the same offense;^d nor shall he be compelled, in any criminal case, to be a witness against himself;^e nor be deprived

a. Admission to bail in capital cases, where the proof is evident or the presumption great may be forbidden by legislation; but in all other cases, admission to bail is a right which no Judge or Court can properly refuse. (People vs. Tinder, 19 Cal. 539.)

The provision that bail is a matter of right contemplates only those cases in which the party has not been already convicted. (Ex parte Voll, 41 Cal. 29.)

b. The two hundred and seventy-third section of the criminal practice Act, directing that where a person is indicted under a wrong name, and he gives his true name, it shall be entered on the minutes and the prisoner tried under his true name (see Penal Code, Section 989), is not a violation of this clause. The meaning of this provision is that the person shall be indicted, not the person by his true name, but the person himself. (People vs. Kelly, 6 Cal. 210.)

The grand jury should be constituted according to law, but the objection that it is not so constituted must be made at the particular time provided by statute. The Legislature may constitutionally prescribe rules of practice, and among these is the provision as to the time and mode of excepting to irregularities of proceeding. (People vs. Arnold, 15 Cal. 476.)

c. Courts have a large discretion over the conduct of proceedings before them, and may limit arguments of counsel to reasonable time; but, in capital cases, this should be done only in very extraordinary and peculiar instances. The opportunity of a full defense is a constitutional right without which a prisoner cannot be lawfully convicted. (People vs. Keenan, 13 Cal. 581.)

d. On a second trial for murder upon the same or a different indictment, defendant can plead a conviction of manslaughter as an acquittal of the crime of murder. A conviction of manslaughter is an acquittal of every offense charged in the indictment higher than the particular one of which the prisoner is found guilty. (People vs. Gilmore, 4 Cal. 376.)

This provision was never intended to apply to cases in which a judgment of conviction was reversed in the appellate Court and a new trial ordered. In such cases, it being apparent from the judgment of reversal that such trial was erroneous, the defendant in fact was not in jeopardy. The order for a new trial places the party in the same position as though no trial had been had. (People vs. March, 6 Cal. 543.)

Where, upon a previous trial, it turned out that there was a misnomer of the party injured, and thereupon the indictment was discharged and the new indictment found: Held, that the accused was not placed twice in jeopardy. It would be a contradiction in terms to say that a person was put in jeopardy by an indictment under which he could not be convicted, and it is obviously immaterial whether the inability to convict arise from a variance between the proof and indictment or from some defect in the indictment. (People vs. McNealy, 17 Cal. 332.)

If a person charged with crime has once been acquitted by the verdict of a jury, he cannot be held to answer again for the same offense, no matter by what mistakes or errors on the part of the Court, jury, or prosecution the acquittal was obtained. (People vs. Webb, 38 Cal. 467.)

When a person is placed on trial upon a valid indictment before a competent Court and jury, he is "in jeopardy" within the meaning of the Constitution. (People vs. Cage, 48 Cal. 323.)

e. A witness is not privileged from answering on the ground that his answer would disgrace him, but solely on the ground that he is not compelled to criminate himself. (Ex parte Rowe, 7 Cal. 184.)

of life, liberty, or property without due process of law,^a NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION.^b

Liberty of speech and press, and law of libel.

SEC. 9. Every citizen may freely speak, write, and publish his

a. The provisions of the thirty-first section of the practice Act authorizing judgment against an absent defendant, for whom the Court has appointed an attorney with privilege of coming and opening it in six months, is not in violation of this clause. (*Ware vs. Robinson*, 9 Cal. 107.)

The right to practice law is not "property" within the constitutional meaning of the term. The Act of 25th April, 1863, requiring attorneys and litigants to file affidavits of allegiance to the government, does not contravene this provision. (*Cohen vs. Wright*, 22 Cal. 293.)

This provision is not applicable to proceedings by the State to obtain from citizens their proper contributions to the expenses of administering the government. (*Hugh vs. Shoemaker*, 22 Cal. 363.)

b. The destruction of a building to stop the spread of a conflagration cannot be deemed a taking of private property for public use within the meaning of this clause. (*Dunbar vs. San Francisco*, 1 Cal. 355.)

A lot of land in the Harbor of San Francisco, lying within the line of a street laid down and recognized by the city on its official map, and being in the actual possession of a person claiming to be the owner, cannot be taken and appropriated to public use by the city without payment of just compensation, there being no title to the land in the city. (*Gunter vs. Geary*, 1 Cal. 462; *Surocco vs. Geary*, 3 Cal. 69.)

Where private property is appropriated to public use by Supervisors, without making provision for paying for the same, such act is illegal and may be enjoined. (*McCann vs. Sierra County*, 7 Cal. 121.)

Parties in possession of land claiming title thereto are presumed to be the owners, and are entitled to compensation before it can be taken for public uses. (*Sacramento Valley Railroad Company vs. Moffat*, 7 Cal. 577.)

A municipal corporation cannot take private property for public use without making compensation in advance, or providing a fund out of which compensation shall be made as soon as the amount to be paid can be determined. (*Colton vs. Rossi*, 9 Cal. 595.)

The means of compensating the owner must be provided before the property is taken. (*McCaulley vs. Weller*, 12 Cal. 500; *Bensley vs. Mountain Lake Water Company*, 13 Cal. 306.)

Where compensation for land taken by a county for public use does not precede or accompany the taking, the entire action of the county authorities is void; and in such case a suit against the county for the compensation does not lie. (*Johnson vs. Alameda County*, 14 Cal. 106.)

If the use for which the property is taken be to satisfy a great public want or public exigency, it is a public use within the meaning of the Constitution, and the State is not limited to any given mode of applying the property to satisfy the want or meet the exigency. (*Gilmer vs. Lime Point*, 18 Cal. 229.)

The use of land for railroad purposes is a public use. (*Contra Costa Railroad Company vs. Moss*, 23 Cal. 323.)

A statute divesting the title of a purchaser of property which had been previously mortgaged by foreclosure proceedings, to which the purchaser was a stranger, would be unconstitutional. (*Skinner vs. Buck*, 29 Cal. 253.)

A statute validating and confirming a contract previously made in good faith but not in the precise mode prescribed by the existing law (such as a deed by the attorney in fact of a married woman before she was allowed to make a power of attorney) does not operate to divest vested rights, and is not therefore unconstitutional. (*Dentzel vs. Waldie*, 30 Cal. 138.)

Land is not "taken for public use" until the last act has been performed, which, under the mode of condemnation adopted, is required to transfer the title or subject it to the servitude. (*Fox vs. Western Pacific Railroad Company*, 31 Cal. 538.)

An Act providing that, in assessing the value of land taken for a railroad, allowance shall be made for any benefit that will accrue to the person whose land is taken, is not unconstitutional. (*San Francisco A. and S. R. R. Company vs. Caldwell*, 31 Cal. 367.)

Land may be taken under the power of eminent domain for what is called in the statutes a "private road." (*Sherman vs. Buick*, 32 Cal. 241.)

This clause has no application to assessments for street work in San Francisco under the Consolidation Act as amended in 1862 or 1863. (*Chambers vs. Satterlee*, 40 Cal. 497.)

The "public use" mentioned in the Constitution is left in large measure to legislative determination. (*Stockton and Visalia R. R. Co. vs. Stockton*, 41 Cal. 149.)

An Act requiring persons claiming compensation for land to be taken for alteration of a public road to present their claims within a certain time, or be deemed as waiving all right to damages, does not violate this clause. (*Potter vs. Ames*, 43 Cal. 75.)

An Act providing that a railroad company may occupy or use land pending proceedings to condemn it, without providing compensation for the use and waste thereof if the proceedings fail, is in violation of the Constitution. (*Davis vs. San Lorenzo R. R. Co.*, 47 Cal. 517.)

sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Popular assemblies.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

Uniformity of general laws.

SEC. 11. ALL LAWS OF A GENERAL NATURE SHALL HAVE A UNIFORM OPERATION.^a

Military power.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace; and, in time of war, no appropriation for a standing army shall be for a longer time than two years.

a. The Revenue Act of May 18, 1853, does not violate this section. By "uniform operation" it was intended that laws of this character should, as nearly as possible, affect persons and property alike. A perfectly equal tax law is impossible from the very nature of the subject. (*People vs. Coleman*, 4 Cal. 46.)

An Act regulating fees in office is not an Act of a general nature; hence a fee bill for a separate county is not in violation of this section. (*Ryan vs. Johnson*, 5 Cal. 86.)

Act to remedy the failure of a Tax Collector to publish names of owners and lists of property is not general but special in its nature. (*Moore vs. Patch*, 12 Cal. 265.)

The word "uniform" does not mean "universal." The Constitution is violated only when a privilege extended to one is denied to another on substantially the same facts. (*Smith vs. Judge of Twelfth District Court*, 17 Cal. 547.)

This provision is not violated by the "Sunday Law" of 1861. (*Ex parte Andrews*, 18 Cal. 678.)

The Act of May 3, 1852, providing for the appointment of a Gauger at the Port of San Francisco, is constitutional. It is not a general but a special law. (*Addison vs. Saulnier*, 19 Cal. 82.)

An Act allowing a percentage to be taxed as costs in litigated cases, though made applicable to one county alone, operates equally and uniformly upon all parties in the same category, and is not unconstitutional. (*Corwin vs. Ward*, 35 Cal. 195.)

This clause means that every law shall have a uniform operation upon all the citizens, or persons, or things of any class upon which it purports to take effect, and that it shall not grant to any citizen or class of citizens privileges which, upon the same terms, shall not equally belong to other citizens. (*Brooks vs. Hyde*, 37 Cal. 366.)

A city ordinance to prohibit noisy amusements and prevent immorality is not, on account of its local operation, repugnant to the Constitution. (*Ex parte Smith and Keating*, 38 Cal. 702.)

The Constitution does not require laws to have a uniform operation unless they are of a general nature; and whether a law is of a general or special nature depends, in a measure, upon the legislative purpose discernible in its enactment. (*People vs. Central Pacific R. R. Co.*, 43 Cal. 398.)

The Constitution does not prohibit a special Act because the subject with which it deals might have been the subject of a general law. (*People vs. Central Pacific R. R. Co.*, 43 Cal. 398.)

An Act for securing mechanics' liens, which fails to give to laborers other than those working on mining claims a lien, is not for that reason unconstitutional. (*Quale vs. Moon*, 48 Cal. 478.)

Quartering of soldiers.

SEC. 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

Representation.

SEC. 14. Representation shall be apportioned according to population.

Imprisonment for debt.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud;^a and no person shall be imprisoned for a militia fine in time of peace.

Laws prohibited.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.^b

Rights of foreigners.

SEC. 17. Foreigners who are or who may hereafter become bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.^c

a. In a suit to recover money received by a person as agent, he cannot be arrested without showing some fraudulent conduct on his part. (*Ex parte Holdforth*, 1 Cal. 438.)

A party cannot be imprisoned under a judgment in a civil action for assault and battery. (*Ex parte Prader*, 6 Cal. 239.)

b. The Act of April 15, 1851, re-incorporating the City of San Francisco, did not extinguish the debts of the city incurred under the former charter, nor did its property escheat to the State. An Act passed with such intention would be unconstitutional. (*Smith vs. Morse*, 2 Cal. 524.)

The suspension by statute of remedies or any part thereof existing when the contract was made is more or less impairing the obligation of the contract. (*Thorne vs. Hays*, 4 Cal. 127.)

The forty-first section of the Act concerning conveyances, requiring conveyances made before the passage of the Act to be recorded, does not impair the obligation of a contract. (*Stafford vs. Lick*, 7 Cal. 479.)

The provisions of the "Consolidation Act" of San Francisco, requiring the Sinking Fund created by Act of 1851 to be first exhausted by redemption of certificates of stock, before the Treasurer should make payment annually of fifty thousand dollars, set apart by Act of 1851 for payment of interest, etc., are unconstitutional as violating a contract. (*Tallant vs. Woods*, 7 Cal. 579.)

This provision in regard to contracts relates to contracts between individuals, and not to contracts between individuals and the State. (*Myers vs. English*, 9 Cal. 341.)

The right to practice law is not a "contract," and therefore the "Test Act" does not violate the obligation of a contract. (*Cohen vs. Wright*, 22 Cal. 293.)

c. A British seaman on board a British vessel, of which a British subject is master, may, when discharged in a port of this State, without any fault on his part, sue for and recover his wages in a State Court. (*Pugh vs. Gillam*, 1 Cal. 485.)

An alien may purchase and hold land, and make leases, and sustain actions till "office found," and proof of his alienage cannot be made available in a collateral proceeding. (*Ramires vs. Kent*, 2 Cal. 558.)

An alien may hold real estate against every one, and even against the government, until "office found." (*Attorney-General vs. Folsom*, 5 Cal. 373.)

Held that a non-resident alien cannot inherit land in this State. (*Siemsen vs. Bofer*, 6 Cal. 250; *Norris vs. Hoyt*, 18 Cal. 217.)

This section leaves the right of non-resident foreigners in respect to real property as it exists at common law. (*Farrell vs. Enright*, 12 Cal. 450.)

The Act of April 19, 1856, permitting non-resident aliens to inherit, is constitutional; and the

Slavery prohibited.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Search warrants.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but for probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Treason defined, and how punished.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open Court.

Popular rights retained by the people.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 22. The Legislature shall have no power to make an appropriation, for any purpose whatever, for a longer period than two years.* (Amendment, proposed 1866; ratified 6th September, 1871.)

ARTICLE II.

RIGHT OF SUFFRAGE.

Who are or may be electors.

SECTION 1. Every white male citizen of the United States, and every white male citizen of Mexico who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the thirteenth day of May, eighteen hundred and forty-eight, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty

right of bona fide resident aliens may be enlarged but cannot be abridged by the Legislature (People vs. Rogers, 13 Cal. 159.)

By virtue of its police power the State possesses jurisdiction to arrest and restrain fugitive slaves and to remove them from its borders, but not so as to obstruct the owner in reclaiming his slave. (Ex parte Perkins, 2 Cal. 424.)

The doctrine of "comity," as to the right of transit through and delay with slaves in the State, discussed. (Ex parte Archy, 9 Cal. 147.)

a. The amendment constituted a new and additional section.

days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law; *provided*, that nothing herein contained shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage Indians, or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper.*

Privileges of electors.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

Militia duty.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

Residence.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States,^a nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

Idiot, insane, and infamous persons.

SEC. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

Ballot.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

Separate departments.

The powers of the government of the State of California shall be divided into three separate departments: the legislative, the execu-

a. The Act of April 25, 1863, providing for taking the votes of California volunteers outside of the counties of their legal residence, was unconstitutional. (*Bourland vs. Hildreth*, 26 Cal. 161; *Day vs. Jones*, 31 Cal. 261.)

b. The mere fact that a man is a soldier in the United States Army does not disqualify him from voting in this State; nor does a mere residence or sojourn in the country as a soldier make a man a citizen or prove him such. The fact of such sojourn or residence neither creates nor destroys citizenship. (*Orman vs. Riley*, 15 Cal. 48.)

tive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.*

ARTICLE IV.

LEGISLATIVE DEPARTMENT.^b

Senate and Assembly—Enacting clause of laws.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated the Legislature of the State of California; and the enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

a. The Legislature has no power to confer other than judicial functions upon the Court of Sessions. (*Burgoyne vs. San Francisco*, 5 Cal. 9; *Phelan vs. San Francisco*, 6 Cal. 531.) The Legislature cannot confer upon a County Judge power of designating place and manner of holding an election, as it is a ministerial and not a judicial act, and an election thus held will be void. (*Dickey vs. Hurlburt*, 5 Cal. 343.)

Where any of the duties or powers of one of the departments are not disposed of or distributed to particular officers of that department, such powers or duties are left to the disposal of the Legislature. (*Ross vs. Whitman*, 6 Cal. 361.)

From the necessity of the case, Supervisors exercise judicial, legislative, and executive powers in matters relating to the police and fiscal regulations of counties. (*People vs. El Dorado County*, 8 Cal. 58.)

The assessment of taxes is not a judicial act, and cannot be exercised by the Court of Sessions. (10 Cal. 402.)

The Constitution does not place either department above the law, nor make either independent of the other. The Legislature can pass such laws as it may deem expedient, subject only to the prohibitions of the Constitution. If it oversteps those limits, and attempts to impair the obligation of contracts, or to pass ex post facto laws, or grant special acts of incorporation for other than municipal purposes, the judiciary will set aside its legislation and protect the rights it has assailed. (*McCauley vs. Brooks*, 16 Cal. 11.)

Nothing in the Constitution prohibits the Legislature from declaring the Mayor of a city to be ex officio a Justice of the Peace. (*Uridias vs. Morrill*, 22 Cal. 473.)

This article refers to the distribution of the powers of the State Government and not to those of local governments created by the Legislature; so that there is nothing in it to prevent the Police Judge of the City and County of San Francisco from performing the duties of the office of Police Commissioner as an ex officio office. (*People vs. Provines*, 34 Cal. 520.)

b. The Constitution is not to be regarded as a grant of power but rather as a restriction upon the powers of the Legislature; and it is competent for the Legislature to exercise all powers not forbidden by the Constitution, or delegated to the General Government, or prohibited by the United States Constitution. (*People vs. Coleman*, 4 Cal. 46; *People vs. Bigler*, 5 Cal. 23.)

The motives of the Legislature in passing a law will not be inquired into. (*People vs. Bigler*, 5 Cal. 23.)

An Act may be void in part for its unconstitutionality, and good so far as it is constitutional. (*People vs. Burbank*, 12 Cal. 378.)

The Legislature cannot require the Supreme Court to give the reasons of its decisions in writing. The constitutional duty of the Court is discharged by the renditions of its decisions. (*Houston vs. Williams*, 13 Cal. 24.)

The Constitution is not a grant but a restriction upon the power of the Legislature, and hence an express enumeration of legislative powers and privileges therein cannot be considered as the exclusion of others not named, unless accompanied by negative terms. (*Ex parte McCarthy*, 29 Cal. 395.)

The Legislature has no power to legalize defective pleadings in pending actions. (*People vs. Mariposa Company*, 31 Cal. 196.)

It is not within the constitutional power of the State Legislature to confer jurisdiction upon

Sessions of Legislature.

SEC. 2. The sessions of the Legislature shall be biennial, and shall commence on the first Monday of December next ensuing the election of its members, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation. No session shall continue longer than one hundred and twenty days. (Amendment, proposed 1861; ratified 3d September, 1862.)

Election and terms of Assemblymen.

SEC. 3. The members of the Assembly shall be chosen biennially, by the qualified electors of their respective districts, on the first Wednesday in September, unless otherwise ordered by the Legislature, and their term of office shall be two years. (Amendment, proposed 1861; ratified 3d September, 1862.)

Qualifications of legislators.

SEC. 4. Senators and members of Assembly shall be duly qualified electors in the respective counties and districts which they represent.

Election and terms of Senators.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and places as members of Assembly; and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State, and of the county or district for which he shall be chosen, one year next before his election. (Amendment, proposed 1861; ratified 3d September, 1862.)

Number and classes of Senators.

SEC. 6. The number of Senators shall not be less than one-third,

Federal Courts or prescribe the means or mode of its exercise. (Greely vs. Townsend, 25 Cal. 604.)

An Act of the Legislature granting a new trial or re-opening a judgment in favor of the people, in a civil action in which the people are a party, is a mere consent on the part of the people, one of the parties, that a new trial be granted or the judgment re-opened and is not unconstitutional. (People vs. Frisbie, 26 Cal. 135.)

Where a new county is erected out of territory taken in part from another county, the Legislature has the power to create a Board of Commissioners to ascertain, settle, and report the amount due from one to the other, and to compel the Supervisors of the county indebted to levy a tax to pay the amount so reported due. (People vs. Alameda County, 26 Cal. 641.)

The Legislature can delegate to a Board of Supervisors power to make an order to prevent the carrying on of an offensive trade, prejudicial to public health, within the limits of a city. (Ex parte Shrader, 33 Cal. 279.)

The Legislature cannot delegate the power to make laws, conferred upon it by the Constitution, to the people of the State or to any portion of the people. (Ex parte Wall, 48 Cal. 279.)

The Legislature has no power to refer a statute to the people to decide by a popular vote whether it shall go into effect. (Ex parte Wall, 48 Cal. 279.)

A law which submits to a popular vote of the electors of a county the question whether certain territory of an adjoining county shall be annexed to it and that if such vote should be in the affirmative the adjoining county should be disorganized and the territory annexed, is not unconstitutional. (People vs. Nally, 49 Cal. 478.)

nor more than one-half, of that of the members of Assembly; and at the first session of the Legislature after this section takes effect, the Senators shall be divided by lot, as equally as may be, into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, so that one-half shall be chosen biennially. (Amendment, proposed 1861; ratified 3d September, 1862.)

Increase in number.

SEC. 7. When the number of Senators is increased, they shall be appointed by lot, so as to keep the two classes as nearly equal in number as possible.

Organization of legislative Houses.

SEC. 8. Each House shall choose its own officers, and judge of the qualifications, elections, and returns of its own members.

Quorum.

SEC. 9. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

Rules—Expulsions.

SEC. 10. Each House shall determine the rules of its own proceedings, and may, with the concurrence of two-thirds of all the members elected, expel a member.

Journals.

SEC. 11. Each House shall keep a Journal of its own proceedings, and publish the same; and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journal.

Privileges of legislators.

SEC. 12. Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest, and they shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

Vacancies.

SEC. 13. When vacancies occur in either House, the Governor, or

the person exercising the functions of the Governor, shall issue writs of elections to fill such vacancies.

Open doors.

SEC. 14. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

Adjournments.

SEC. 15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Origination of bills.

SEC. 16. Any bill may originate in either House of the Legislature, and all bills passed by one House may be amended in the other.

Governor's approval—Passage of bills notwithstanding Governor's objections.

SEC. 17. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter the same upon the Journal, and proceed to reconsider it. If, after such reconsideration, it again pass both Houses, by yeas and nays, by a majority of two-thirds of the members of each House present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevent such return.^a

a. The Court may go behind the record evidence of a statute, and inquire whether it was passed or approved in accordance with the Constitution. (Fowler vs. Peirce, 2 Cal. 165.)

In approving a statute the Executive acts as a component part of the law-making power, and his power of approval ceases on the adjournment of the Legislature. (Id.)

In nearly all the printed copies of the Constitution there is a mistake in the omission of the final letter "s" in the word "Sundays." The erroneous decision in *Hepburn vs. Whitman*, 6 Cal. 659, was based upon this mistake. (See *Price vs. Whitman*, 8 Cal. 412.) The ten days must be computed by excluding the day on which the bill is presented to the Governor. (*Price vs. Whitman*, 8 Cal. 412.)

Where the Governor sent a bill with his objections to the House in which it originated on the last of the ten days, and, on account of an adjournment of the House for the day, the bill was re-delivered to the Governor and retained by him: Held, that it was not returned within ten days within the meaning of the Constitution. (*Harpending vs. Haight*, 39 Cal. 189.)

In computing the ten days within which a bill may be returned by the Governor, the day on which it is presented to the Governor must be excluded. (*Iron Mountain Co. vs. Haight*, 39 Cal. 540.)

Impeachments.

SEC. 18. The Assembly shall have the sole power of impeachment; and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

Officers liable to impeachment—Judgment.

SEC. 19. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Justices of the Supreme Court, and Judges of the District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit, under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried, for misdemeanors in office, in such a manner as the Legislature may provide.

Disabilities of legislators.

SEC. 20. No Senator or member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

Ineligibility to office—Proviso.

SEC. 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, to which there is attached no annual salary, or local officers and Postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.*

a. The Federal office of Surveyor-General is a lucrative office, and the office of Controller of State an office of profit. (Melony vs. Whitman, 10 Cal. 38.)

To constitute a "holding" there must be a concurrence of two wills, that of the appointing power and that of the person appointed. (Id.)

The word "eligible" means capable of being chosen. A person holding a lucrative Federal office cannot receive votes cast so as to give him a right to take the State office upon or after resigning the Federal office. (Searcy vs. Grow, 15 Cal. 117.)

The term "compensation" means the income of the office, not the profit over and above the necessary expenses. (Id.)

A person who held and discharged the duties of Inspector of Customs of the United States under appointment of the Collector at San Francisco, but whose appointment was never approved by the Secretary of the Treasury, held not to be ineligible to the office of District Judge. (People vs. Turner, 20 Cal. 142.)

Embezzlement—Defalcation of public funds.

SEC. 22. No person who shall be convicted of the embezzlement or defalcation of the public funds of this State shall ever be eligible to any office of honor, trust, or profit under this State; and the Legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement or defalcation as a felony.

Public moneys and accounts.

SEC. 23. No money shall be drawn from the treasury but in consequence of appropriations made by law.* An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the Legislature.

Compensation.

SEC. 24. The members of the Legislature shall receive for their services a compensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either House shall have been elected.

Title of laws—Revision and amendment of laws.

SEC. 25. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title,^b and no law shall be revised or amended by reference to this title; but in such case the Act revised or section amended shall be reenacted and published at length.^c

a. The power of controlling and disposing of the revenue of the State is vested in the Legislature. It is within the power of the judiciary to declare the action of the Legislature unconstitutional, where that action exceeds the limits of the supreme law; but the Courts have no means and no power to avoid the effects of non-action. (Myers vs. English, 9 Cal. 341.)

This clause means only that no moneys shall be drawn except in pursuance of law. (McCaulley vs. Brooks, 16 Cal. 11.)

b. A law is constitutional where the subjects embraced in the same statute and not expressed in the title have congruity or proper connection. (De Witt vs. San Francisco, 2 Cal. 289.)

This provision is merely directory. (Washington vs. Page, 4 Cal. 388; Pierpont vs. Cronch, 10 Cal. 315.)

A law "to regulate fees," which provides for the amount of fees, and, at the same time, that a part of such fees shall be paid into the treasury, is not objectionable as embracing more than one object, and that not expressed in the title. (Ream vs. Siskiyou County, 36 Cal. 620.)

c. The amendment of a statute operates as an absolute repeal of the old statute or section amended, even if the amendment takes nothing away from the old law, but merely adds a provision in certain cases. (Billings vs. Harvey, 6 Cal. 381.)

Where a law enters into and becomes a part of a contract, it cannot be so altered or amended as to impair or destroy the rights of the parties. (Smith vs. Curtis, 7 Cal. 584.)

A statute may be repealed by implication; and where a subsequent Act is repugnant to a prior one, the last operates, without a repealing clause, as a repeal of the first; and where two Acts passed at different times are not in terms repugnant, yet if it is clearly evident that the last was intended as a revision or substitute of the first, it will repeal the first to the extent in which its provisions are revised or substituted. (Pierpont vs. Cronch, 10 Cal. 315.)

Divorces.

SEC. 26. No divorce shall be granted by the Legislature.

Lotteries.

SEC. 27. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

Census.

SEC. 28. The enumeration of the inhabitants of this State shall be taken, under the direction of the Legislature, in the year one thousand eight hundred and fifty-two and one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both Houses of the Legislature.

Apportionment of legislators.

SEC. 29. The number of Senators and members of Assembly shall, at the first session of the Legislature holden after the enumeration herein provided for and made, be fixed by the Legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of Assembly shall not be less than twenty-four, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and after that period, at such ratio that the whole number of members of Assembly shall never be less than thirty nor more than eighty.

Congressional, Senatorial, and Assembly Districts.

SEC. 30. When a Congressional, Senatorial, or Assembly District shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county shall be divided in forming a Congressional, Senatorial, or Assembly District, so as to attach one portion of a county to another county; but the Legislature may divide each county into as many Congressional, Senatorial, or Assembly Districts as such county may by apportionment be entitled to. (Amendment, proposed 1861; ratified 3d September, 1862.)

Corporations.

SEC. 31. CORPORATIONS MAY BE FORMED UNDER GENERAL LAWS, BUT SHALL NOT BE CREATED BY SPECIAL ACT, EXCEPT FOR MUNICI-

PAL PURPOSES.* ALL GENERAL LAWS AND SPECIAL ACTS PASSED PURSUANT TO THIS SECTION MAY BE ALTERED FROM TIME TO TIME, OR REPEALED.

Dues.

SEC. 32. DUES FROM CORPORATIONS SHALL BE SECURED BY SUCH INDIVIDUAL LIABILITY OF THE CORPORATORS, AND OTHER MEANS, AS MAY BE PRESCRIBED BY LAW.⁴

Powers and privileges.

SEC. 33. THE TERM CORPORATIONS, AS USED IN THIS ARTICLE, SHALL BE CONSTRUED TO INCLUDE ALL ASSOCIATIONS AND JOINT-STOCK COMPANIES HAVING ANY OF THE POWERS OR PRIVILEGES OF CORPORATIONS NOT POSSESSED BY INDIVIDUALS OR PARTNERSHIPS. AND ALL CORPORATIONS SHALL HAVE THE RIGHT TO SUE, AND SHALL BE SUBJECT TO BE SUED, IN ALL COURTS, IN LIKE CASES AS NATURAL PERSONS.

Banks and bank circulation.

SEC. 34. The Legislature shall have no power to pass any Act granting any charter for banking purposes, but associations may be formed, under general laws, for the deposit of gold and silver; but no such association shall make, issue, or put in circulation any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

Banking privileges.

SEC. 35. The Legislature of this State shall prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

a. The term "municipal" is limited to governmental, and cannot be extended to commercial purposes. (Low vs. Marysville, 5 Cal. 214.)

Exclusive franchises and privileges may be conferred by the Legislature upon persons or corporations. (California State Telegraph Company vs. Alta Telegraph Company, 22 Cal. 398.)

An Act which purports on its face to be and is in fact a special Act, cannot be converted into a general Act by a declaration of the Legislature in another Act that it shall be considered a general Act. (San Francisco vs. Spring Valley W. W., 48 Cal. 493.)

Corporations, except for municipal purposes, must be formed under general laws, and can exercise no powers except such as are conferred by general laws. (San Francisco vs. Spring Valley W. W., 48 Cal. 493.)

A private corporation to supply a city with water cannot be created by special Act, nor can power to supply a city with water be conferred on a private corporation by special Act. (San Francisco vs. Spring Valley W. W., 48 Cal. 493.)

b. As to the power of the Legislature to regulate the individual liability of stockholders in corporations, see Robinson vs. Bidwell, 22 Cal. 379.

The Legislature of 1861 proposed as an amendment to the Constitution, and as a portion of section thirty-nine to this article, the abrogation and annulling of sections thirty-two and thirty-six; but the proposition was not adopted by the Legislature of 1862. (See Statutes of 1861, 662, and Statutes of 1862, 582.)

Individual liability of corporators.

SEC. 36. EACH STOCKHOLDER OF A CORPORATION OR JOINT-STOCK ASSOCIATION SHALL BE INDIVIDUALLY AND PERSONALLY LIABLE FOR HIS PROPORTION OF ALL ITS DEBTS AND LIABILITIES.^a

Organization of cities and villages.

SEC. 37. IT SHALL BE THE DUTY OF THE LEGISLATURE TO PROVIDE FOR THE ORGANIZATION OF CITIES AND INCORPORATED VILLAGES, AND TO RESTRICT THEIR POWER OF TAXATION, ASSESSMENT, BORROWING MONEY, CONTRACTING DEBTS, AND LOANING THEIR CREDIT, SO AS TO PREVENT ABUSES IN ASSESSMENTS AND IN CONTRACTING DEBTS BY SUCH MUNICIPAL CORPORATIONS.^b

Legislative elections.

SEC. 38. In all elections by the Legislature, the members thereof shall vote viva voce, and the votes shall be entered on the Journal.

Effect of amendments.

SEC. 39. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to article four by the Legislature of eighteen hundred and sixty-one, no officer shall be suspended or superseded thereby until the election and qualification of the several officers provided for in said amendments. (Amendment, proposed 1861; ratified 3d September, 1862.)

ARTICLE V.

EXECUTIVE DEPARTMENT.

Governor.

SECTION 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.

a. Legislation is necessary to give practical effect to this provision, and without the aid of legislation it is inoperative. (Trench vs. Teschemaker, 24 Cal. 518.)

b. The proposed Central Pacific Railroad, leading from Sacramento, the eastern portion of the State, is so far a public improvement and sufficiently for the apparent interest of Sacramento that a law authorizing the municipality to become a stockholder is not unconstitutional, as imposing a tax upon a local community for an improvement in which it has no peculiar interest. (Robinson vs. Bidwell, 22 Cal. 379.)

The powers of a municipal corporation may be increased, restricted, or repealed by the Legislature at will, saving only vested rights. (Blanding vs. Burr, 13 Cal. 343.)

The fact that the Legislature has once exercised its powers in limiting the extent of taxation in municipal corporations does not prevent the Legislature from again exercising its power by enlarging the authority to tax. (Id.)

The Legislature may authorize a municipal corporation to pay claims invalid in law, but equitable and just in themselves. (Id.)

The words "taxation" and "assessment" do not have the same signification. The Legislature can have nothing to do with the mode of enforcing the taxing power, represented by the word "assessment," except while working under this provision of the Constitution. (Taylor vs. Palmer, 31 Cal. 240.)

Election and term.

SEC. 2. The Governor shall be elected by the qualified electors, at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday in December subsequent to his election, and until his successor is elected and qualified. (Amendment, proposed 1861; ratified 3d September, 1862.)

Qualifications.

SEC. 3. No person shall be eligible to the office of Governor (except at the first election) who has not been a citizen of the United States, and a resident of this State, two years next preceding the election, and attained the age of twenty-five years at the time of said election.

Returns of election.

SEC. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in presence of both Houses of the Legislature. The person having the highest number of votes shall be Governor; but in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both Houses, choose one of said persons so having an equal and the highest number of votes for Governor.

Commander-in-Chief.

SEC. 5. The Governor shall be Commander-in-Chief of the militia, the army, and navy of this State.

Executive business.

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department upon any subject relating to the duties of their respective offices.

Execution of laws.

SEC. 7. He shall see that the laws are faithfully executed.

Filling vacancies.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy by

granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people."

Special sessions of Legislature.

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

Executive messages.

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

Adjournment of Legislature.

SEC. 11. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided it be not beyond the time fixed for the meeting of the next Legislature.

Disabilities.

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor, except as hereinafter expressly provided.

Reprieves and pardons.

SEC. 13. The Governor shall have the power to grant reprieves and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions

a. This power in the Governor is limited by the period when the people or the Legislature can elect or appoint; on the arrival of which his power ceases. (Cassery vs. Fitch, 1 Cal. 519.)

A constitutional officer cannot be divested of his office otherwise than as prescribed by the Constitution. Doubt expressed as to whether the absence of a Judge from the State is such a vacancy as can be supplied by the Executive. (People vs. Wells, 2 Cal. 198.)

Where there is a failure to fill an elective office on the expiration of a term, though the incumbent holds until his successor is appointed and qualifies, the office becomes *de jure* vacant, and can be filled by the Governor. (Langdon vs. Reid, 5 Cal. 288.)

As to what constitutes a vacancy, consult Ryder vs. Mizner, 7 Cal. 519, and Aylett vs. Langdon, 8 Cal. 1.

A person appointed by the Governor to fill a vacancy in the office of Superintendent of Immigration for San Francisco is entitled to hold until a new appointment by the Governor and Senate. The Governor cannot, after the commission is issued, revoke it; and the appointee cannot be disturbed until the office is filled pursuant to statute. (Wetherbee vs. Cazneau, 20 Cal. 503.)

This section applies only to those cases of vacancies for filling which no other mode is provided "by the Constitution and laws," and has no application to vacancies the mode of filling which is provided by the law of April 28, 1851, concerning officers. (Id.)

When there is a person in possession of an office, who is expressly authorized by statute or Constitution to discharge its duties temporarily, till the electing or appointing power can regularly act, there is no vacancy within the meaning of the constitutional clause. (People vs. Tilton, 37 Cal. 614.)

and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the pardon or reprieve.

Seal of State.

SEC. 14. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

Grants and commissions.

SEC. 15. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Lieutenant-Governor.

SEC. 16. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor; and his term of office, and his qualifications of eligibility, shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease.

When duties of Governor to devolve on Lieutenant-Governor.

SEC. 17. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease.* But when the Governor shall, with the consent of the Legis-

*. When the Constitution clearly enumerates the events that shall constitute a vacancy in a particular office (as it is held to do here in regard to the office of Governor) all other causes of vacancy are excluded. (*Melony vs. Whitman*, 10 Cal. 38.)

lature, be out of the State in time of war, at the head of any military force thereof, he shall continue Commander-in-Chief of the military force of the State.

Other State officers.

SEC. 18. A Secretary of State, a Controller, a Treasurer, an Attorney-General, and a Surveyor-General, shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor, and whose term of office shall be the same as the Governor.* (Amendment, proposed 1861; ratified 3d September, 1862.)

Duties of Secretary of State.

SEC. 19. The Secretary of State shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law; and in order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article five by the Legislature of eighteen hundred and sixty-one, no officer shall be superseded or suspended thereby, until the election and qualification of the several officers provided for in said amendments. (Amendment, proposed 1861; ratified 3d September, 1862.)

Election of State officers.

SEC. 20. The Controller, Treasurer, Attorney-General, and Surveyor-General, shall be chosen by joint vote of the two Houses of the Legislature, at their first session under this Constitution, and thereafter shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor.

Compensation.

SEC. 21. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General, shall each, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected; but

a. The constitutional policy is that all elective officers connected with the executive departments shall be elected biennially at the same time and place, and in the same manner. An appointment of a Controller by the Governor before this election cannot defeat this policy, nor deprive the people of their right to fill the office of Controller at such election. (Brooks vs. Melony, 15 Cal. 58.)

neither of these officers shall receive for his own use any fees for the performance of his official duties.*

ARTICLE VI.

JUDICIAL DEPARTMENT.

Judicial power.

SECTION 1. The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts, in Probate Courts, and in Justices of the Peace, and in such Recorders' and other inferior Courts as the Legislature may establish in any incorporated city or town.^b (Amendment, proposed 1861; ratified 3d September, 1862.)

Supreme Court.

SEC. 2. The Supreme Court shall consist of a Chief Justice and four Associate Justices. The presence of three Justices shall be necessary for the transaction of business, excepting such business as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. (Amendment, proposed 1861; ratified 3d September, 1862.)

Election of Supreme Judges.

SEC. 3. The Justices of the Supreme Court shall be elected by the qualified electors of the State at special elections to be provided by

a. The Constitution is silent with respect to the duties to be performed by the Attorney-General, Secretary of State, Controller and Treasurer, and in assigning their duties the Legislature has a wide discretion; but a limitation on this discretion is implied from the nature of these offices. (*Love vs. Baehr*, 47 Cal. 364.)

b. Each branch of the judicial department has its functions assigned by the Constitution, and is beyond the control of either of the other departments of the government. (*Parsons vs. Tuolumne County Water Company*, 5 Cal. 43.)

The Legislature cannot confer on one Court the functions and powers which the Constitution has conferred on another; consequently a law vesting Justices of the Peace with jurisdiction where the amount in controversy amounts to that over which District Courts have jurisdiction is unconstitutional. (*Zander vs. Coe*, 5 Cal. 230.)

Under the power "to establish such municipal and other inferior Courts as may be necessary," the Courts thus created could only be of inferior, limited, and special jurisdiction. The old Superior Court of San Francisco could, therefore, not be vested with jurisdiction so as to let its powers run beyond its territory. (*Meyer vs. Halkman*, 6 Cal. 582.)

The purpose and effect of the amendment of article six is not to suspend the administration of any portion of the laws of the State, but to provide a judiciary system which will go into operation when the necessary officers shall be elected pursuant to laws to be hereafter enacted, and to continue the former judiciary system in force until the new one shall be in a condition to exercise its functions. The old provisions cease to have effect from time to time as the substituted provisions commence to operate. (*Ex parte Carlos Oliveres*, 21 Cal. 415.)

The term "Municipal Courts" has a legal meaning, and includes Mayors' and Recorders' Courts. (*Uridias vs. Morrill*, 22 Cal. 473.)

The Constitution not having defined the jurisdiction of the Municipal Courts authorized to be established, it is left to be regulated by the Legislature under its general powers. (*Id.*)

The Municipal Criminal Court of San Francisco is a constitutional Court. (*People vs. Myland*, 41 Cal. 129.)

law, at which elections no officer other than judicial shall be elected, except a Superintendent of Public Instruction. The first election for Justices of the Supreme Court shall be held in the year eighteen hundred and sixty-three. The Justices shall hold their offices for the term of ten years from the first day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify themselves by lot that one Justice shall go out of office every two years. The Justice having the shortest term to serve shall be the Chief Justice. (Amendment, proposed 1861; ratified 3d September, 1862.)

Jurisdiction of Supreme Court.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in all cases arising in the Probate Courts; and also in all criminal cases amounting to felony, on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus; and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any District Court, or any County Court, in the State, or before any Judge of said Courts.^b (Amendment, proposed 1861; ratified 3d September, 1862.)

^b The Supreme Court being created by the Constitution, and its powers being therein defined, the jurisdiction therein conferred must be taken as exclusive; hence, under the original section, it was held that it had no original jurisdiction, except in cases of habeas corpus, and could not issue a quo warranto. (Attorney-General ex parte, 1 Cal. 85.)

Nor could it issue a certiorari. (Warner vs. Hall, 1 Cal. 90.)

But it could exercise its appellate powers by means of mandamus, and it seems, of certiorari, etc. (People vs. Turner, 1 Cal. 143; White vs. Lighthall, 1 Cal. 347; see Cowell vs. Buckelew, 14 Cal. 640.)

No appeal lay from the judgment of a District Court on an appeal from an order of the Court of Sessions upon an application for a ferry license. (2 Cal. 133.)

Held that the Supreme Court had power to issue a writ of error to a County Court, where the Supreme Court had jurisdiction of the subject matter, and there was no express provision by law by which the case could be brought up. (Adams & Co. vs. Town, 3 Cal. 247.)

This Court has no appellate jurisdiction in cases of misdemeanor or crimes of a less degree than felony, and no jurisdiction can be conferred by the Legislature. (People vs. Applegate, 5 Cal. 295; People vs. Shear, 7 Cal. 139; People vs. Vick, 7 Cal. 165.)

The Supreme Court has no power to naturalize. (Ex parte Frank Knowles, 5 Cal. 300.)

A writ of error will lie only in cases where no appeal is given by statute. Where an appeal is given, that remedy is exclusive. (Haight vs. Gay, 8 Cal. 297.)

The Supreme Court possesses appellate jurisdiction in all cases, except as provided in the Constitution; it consequently has appellate jurisdiction in divorce cases. (Conant vs. Conant, 10 Cal. 249.)

Jurisdiction on appeal will not be entertained where the record (in a suit for damages) fails

Judicial districts—District Judges.

SEC. 5. The State shall be divided by the Legislature of eighteen hundred and sixty-three into fourteen judicial districts, subject to such alteration from time to time, by a two-thirds vote of all the members elected to both Houses, as the public good may require; in each of which there shall be a District Court, and for each of which a District Judge shall be elected by the qualified electors of the district at the special judicial elections to be held as provided for the election of Justices of the Supreme Court by section three of this article. The District Judges shall hold their offices for the term of six years from the first day of January next after their election. The Legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for upwards of thirty consecutive days shall be deemed to have forfeited his office.* (Amendment, proposed 1861; ratified 3d September, 1862.)

to show that the matter in dispute exceeds two hundred dollars. (*Doyle vs. Seawell*, 12 Cal. 280.)

The words "matter in dispute" mean the subject of litigation. Costs form no part of it. (*Dumphy vs. Guindon*, 13 Cal. 28; *Votan vs. Reese*, 20 Cal. 89.)

Where suit was brought for two hundred dollars and defendant pleaded a set-off of one hundred and twenty-five dollars: Held, that the matter in dispute did not exceed two hundred dollars. (*Simmons vs. Brainard*, 14 Cal. 278.)

Where there was a judgment for plaintiff against defendant for six hundred dollars, and defendant, having a judgment against plaintiff for one hundred and ten dollars in another Court, moved to set it off, which was denied: Held, on appeal of the motion that the matter in dispute did not exceed two hundred dollars. (*Crandell vs. Blen*, 15 Cal. 406.)

Some offenses may be punished either as felonies or misdemeanors, and in such cases the punishment inflicted must determine the grade of the offense. If the punishment is a fine for a misdemeanor, though it exceeds two hundred dollars, the Supreme Court has no appellate jurisdiction. (*People vs. Cornell*, 16 Cal. 187.)

The half-pilotage allowed by the twenty-third section of the Act of March 29, 1856, relating to pilots, is not a "toll" within the meaning of the Constitution. (*Harrison vs. Green*, 18 Cal. 94.)

Where the matter in dispute does not exceed the constitutional sum, the Supreme Court has no appellate jurisdiction, though the demand is secured by a mechanics' lien or a mortgage, of which a foreclosure is sought in the same case. (*Poland vs. Carrigan*, 20 Cal. 174.)

The Supreme Court could not, under the original article, issue the writ of certiorari except in aid of its appellate jurisdiction; consequently the provision of section four hundred and fifty-six of the practice Act held not to apply to it. (*Miliken vs. Huber*, 21 Cal. 169.)

Where, in an action of forcible entry and detainer, plaintiff had judgment in a Justice's Court for twenty dollars damages, and twenty dollars fine and costs, from which defendant appealed to the County Court, where the action was dismissed and afterwards a new trial granted: Held, that it was doubtful whether the Supreme Court had jurisdiction of an appeal from the order. (*Quinn vs. Kenyon*, 22 Cal. 82.)

Under the Constitution as amended, the Supreme Court has original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus. (*Tyler vs. Houghton*, 25 Cal. 26.)

A fine imposed by the County Court for wrongfully demanding and collecting toll for the privilege of passing over a road, is not a "municipal fine" within the meaning of the Constitution. (*People vs. Johnson*, 30 Cal. 98.)

The words "cases at law" refer to civil as distinguished from criminal cases. (*People vs. Johnson*, 30 Cal. 98.)

The Supreme Court has constitutional jurisdiction of an appeal from the County Court in a contested election case. (*Knowles vs. Yeates*, 31 Cal. 82; *Day vs. Jones*, 31 Cal. 261.)

a. An Act of the Legislature, by which a District Judge of one district is empowered to hold a District Court in another district, is not unconstitutional. (*People vs. McCauley*, 1 Cal. 379.)

An election for District Judge at the general election of 1858, when the then incumbent's office was not to expire until 1861: Held unauthorized. (*Brodie vs. Weller*, 11 Cal. 77.)

When a District Judge is elected by the people on the occasion of a vacancy, he is elected for

Jurisdiction of District Courts.

SEC. 6. The District Courts shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars; and also in all criminal cases not otherwise provided for. The District Courts and their Judges shall have power to issue writs of habeas corpus, on petition by or on behalf of any person held in actual custody, in their respective districts." (Amendment, proposed 1861; ratified 3d September, 1862.)

County Courts and County Judges—Probate Judge in San Francisco.

SEC. 7. There shall be in each of the organized counties of the State a County Court, for each of which a County Judge shall be elected by the qualified electors of the county, at the special judicial elections to be held, as provided for the election of Justices of the Supreme Court by section three of this article. The County Judges shall hold their offices for the term of four years from the first day of January next after their election. Said Courts shall also have

a full term, and this, though the proclamation of the Governor is for the unexpired term. The Legislature can direct the time and prescribe the manner of electing District Judges, but cannot change the tenure of the office. (People vs. Burbank, 12 Cal. 378.)

This provision does not restrict the number of judicial districts to fourteen; it means that the Legislature may alter their number as well as their extent. (People vs. Sassovich, 29 Cal. 480.)

a. The jurisdiction of District Courts is confirmed and defined by the Constitution, and no statute can deprive them of their powers. Consequently they have jurisdiction of mining claims if the amount in controversy is sufficient, though the Legislature says that Justices of the Peace shall have jurisdiction of mining claims. (Hicks vs. Bell, 3 Cal. 219; Freeman vs. Powers, 7 Cal. 104.)

When the principal sum sued for is less than two hundred dollars, the District Court has not jurisdiction. (Arnold vs. Van Brunt, 4 Cal. 89.)

District Courts have no appellate jurisdiction. (Reed vs. McCormick, 4 Cal. 342.)

District Courts may render judgment for less than two hundred dollars. (Jackson vs. Wharthenby, 5 Cal. 94.)

A law vesting Justices of the Peace with jurisdiction, where the amount in dispute exceeds the sum specified in the Constitution, is void. (Zander vs. Coe, 5 Cal. 230.)

The District Judge while sitting in an equity case is possessed of all the powers of a Court of Chancery. (Sanford vs. Head, 5 Cal. 297.)

The District Courts have "original jurisdiction in all cases in equity," and a statute depriving them of that jurisdiction or transferring it to any other Court is unconstitutional and void. (Willis vs. Farley, 24 Cal. 490.)

The District Courts have original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus, notwithstanding the Supreme Court has like jurisdiction. (Perry vs. Ames, 26 Cal. 372.)

The District Courts have jurisdiction of all actions to recover damages for trespass upon lands, regardless of the amount of damages claimed. (Holman vs. Taylor, 31 Cal. 338.)

Since the amendment of this section District Courts have no jurisdiction to try issues framed in Probate Courts; and an Act attempting to confer such jurisdiction is void. (Matter of Will of Bowen, 34 Cal. 682.)

It is the intention of this clause to give the District Courts exclusive jurisdiction in those cases only in which the right to the possession is involved. (Pollock vs. Cummings, 38 Cal. 683.)

The constitutional jurisdiction of the District Courts in "equity cases" does not prevent the Legislature from prescribing the procedure by which such jurisdiction is to be exercised, unless the regulations substantially impair the constitutional power of the Court or practically defeat its exercise. (Ex parte Harker, 49 Cal. 465.)

power to issue naturalization papers.^a In the City and County of San Francisco the Legislature may separate the office of Probate Judge from that of County Judge, and may provide for the election of a Probate Judge, who shall hold his office for the term of four years. (Amendment, proposed 1861; ratified 3d September, 1862.)

Jurisdiction of County Courts.

SEC. 8. The County Courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and also such criminal jurisdiction as the Legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in Courts held by Justices of the Peace and Recorders, and in such inferior Courts as may be established, in pursuance of section one of this article, in their respective counties. The County Judges shall also hold in their several counties Probate Courts, and perform such duties as Probate Judges as may be prescribed by law. The County Courts and their Judges shall also have power to issue writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties.^b (Amendment, proposed 1861; ratified 3d September, 1862.)

a. In regard to this section, it is to be noted that the clause relating to naturalization papers was not a part of the section as proposed by the Legislature of 1861 (see 1861, 664). It will further be noted that the clause relating to the Probate Judgeship in the City and County of San Francisco, formed a part of the eighth section and not of the seventh in the amendments proposed in 1861. The Legislature of 1862 (see 1862, 584) changed and declared adopted the amendments as above given in the text. It will, however, be further noted that the amendments in regard to the judicial department are to the entire article six, and not to the separate sections.

b. The term "special cases" does not include any class of cases for which Courts of general jurisdiction have always supplied a remedy; it must be confined to such new cases as are the creation of statutes. (Parsons vs. Tuolumne County Water Company, 5 Cal. 43.)

Held, under the original section, that Justices of the Peace were not to be regarded as supernumeraries to the Court of Sessions, but necessary officers, who had to begin with and continue through a trial. (People vs. Ah Chung, 5 Cal. 103.)

Held, under the ninth section of the original article, that the County Court had no jurisdiction to enforce a mechanic's lien where the amount in controversy exceeded two hundred dollars. (Brock vs. Bruce, 5 Cal. 279.)

The Constitution cannot be construed to confer exclusive original jurisdiction in all special cases upon County Courts. Justices' Courts have jurisdiction in cases of forcible entry. (O'Callaghan vs. Booth, 6 Cal. 63; Small vs. Gwinn, 6 Cal. 447.)

Insolvency cases are "special cases;" and it was an exercise of legitimate power in the Legislature to confer jurisdiction in such cases upon both County and District Courts. (Harper vs. Freelon, 6 Cal. 76.)

The grant of authority to County Judges to award injunctions in cases brought in District Courts is not trenching upon the limits of jurisdiction of any of the Courts; it is a mere power to issue process auxiliary to the proper jurisdiction of the District Courts. (Thompson vs. Williams, 6 Cal. 88.)

The Act of March 27, 1850, conferring upon the County Court the power of incorporating towns, was unconstitutional. Legislative functions cannot be exercised by the judiciary. (People vs. Nevada, 6 Cal. 143.)

Under the Act to re-organize San Mateo County (1857, 222) an election was held, and Fox was elected County Judge. There was no proclamation of the Governor for the election. At the general election in 1858 an election was held pursuant to proclamation, and Templeton was

Justices of the Peace—Proviso.

SEC. 9. The Legislature shall determine the number of Justices of the Peace to be elected in each city and township of the State, and fix by law their powers, duties, and responsibilities; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record. The Supreme Court, the District Courts, County Courts, the Probate Courts, and such other Courts as the Legislature shall prescribe, shall be Courts of record.* (Amendment, proposed 1861; ratified 3d September, 1862.)

elected to the same office: Held, that Fox was entitled to the office for a term of four years, commencing from the time of his assumption of the office. (Fox vs. Templeton, 12 Cal. 394.)

The Act giving jurisdiction over the subject of contested elections to the County Judge is constitutional; it is one of the "special cases" provided for. (Saunders vs. Haynes, 13 Cal. 145.)

The County Judge may grant an injunction in cases in the District Courts, but he cannot appoint a receiver; at least not as a thing distinct from the injunction. (Ruthrauff vs. Kresz, 13 Cal. 639.)

The Legislature may fix the commencement of the term and also the time of election of a County Judge, but an Act limiting the term to anything less than four years is void pro tanto. (Westbrook vs. Rosborough, 14 Cal. 180.)

Where an incumbent resigns before the expiration of his term, there is a vacancy to be filled by the Governor; and his appointees hold until the next general election, and until his successor qualifies. (Id.)

An election to fill such a vacancy is a special election, and the Governor's proclamation is essential to its validity. (Id.)

The statute giving to County Courts jurisdiction in proceedings by mandamus is not unconstitutional. (Jacks vs. Day, 15 Cal. 91.)

The proceedings before the corporate authorities of the town, or the County Court, provided for by the Act of January 24, 1860, regulating the mode of settling claims to lots in town sites situated on public lands in Humboldt County, is a "special case" within the meaning of the Constitution. (Ricks vs. Reed, 19 Cal. 551.)

A proceeding to enforce a mechanic's lien under the mechanics' lien law of 1861 is a "special case" of which the Legislature might properly give jurisdiction to the County Court under the Constitution. (McNiel vs. Borland, 23 Cal. 144.)

The statutory proceeding for contesting an election, as provided for in the Act of 1850, was a "special case." (Dorsey vs. Barry, 24 Cal. 449.)

The grant to the County Court of jurisdiction to prevent or abate nuisances, does not deprive the District Courts of concurrent jurisdiction under their equity powers. (Courtwright vs. Bear River and Auburn W. and M. Co., 30 Cal. 573.)

The Constitution does not confer on the Probate Court jurisdiction of all matters relating to the estates of deceased persons, but of such matters only as the statute directs it to exercise jurisdiction over. (Bush vs. Lindsey, 44 Cal. 121.)

The Constitution has left to the Legislature to determine whether jurisdiction over any special case shall be vested in the County Court or some other Court. (Matter of Marks, 45 Cal. 199.)

Writs of mandate are not "special cases" within the meaning of the Constitution. (People vs. Kern County, 45 Cal. 679.)

An Act attempting to confer power on the County Court to issue writs of mandate is unconstitutional. (People vs. Kern County, 45 Cal. 679.)

Proceedings for the condemnation of water to supply cities with pure water, and the right of way to conduct it, are "special cases." (Spencer Creek Water Co. vs. Vallejo, 48 Cal. 70.)

The Legislature cannot confer jurisdiction of "special cases" upon the County Judge, but only upon one of the Courts mentioned in the Constitution. (Spencer Creek Water Co. vs. Vallejo, 48 Cal. 70.)

a. The jurisdiction of Justices of the Peace is limited to cases in which the value of the thing in controversy does not exceed the sum specified, except in proceedings under the statute concerning forcible entry. When the thing in dispute, though a mining claim, is worth more than that sum, the Justice has no jurisdiction. (Freeman vs. Powers, 7 Cal. 104.)

Under the ninth section of the original article: Held, that the County Court had the sole appellate jurisdiction in all cases, civil and criminal, arising in Justices' Courts; and that the Court of Sessions had no appellate jurisdiction. (People vs. Fowler, 9 Cal. 85.)

The Act of April 27, 1863, "concerning the unlawful holding over of lands, tenements, and other possessions," and attempting to vest jurisdiction of holding-over cases in Justices of the Peace, was unconstitutional. (Caulfield vs. Stevens, 28 Cal. 118.)

Jurisdiction of Recorders' and other inferior Municipal Courts.

SEC. 10. The Legislature shall fix by law the jurisdiction of any Recorder's or other inferior Municipal Court which may be established in pursuance of section one of this article, and shall fix by law the powers, duties and responsibilities of the Judges thereof. (Amendment, proposed 1861 ; ratified 3d September, 1862.)

Clerk of Supreme Court—County officers.

SEC. 11. The Legislature shall provide for the election of a Clerk of the Supreme Court, County Clerks, District Attorneys, Sheriffs, and other necessary officers, and shall fix, by law, their duties and compensation. County Clerks shall be ex officio Clerks of the Courts of record in and for their respective counties.* The Legislature may also provide for the appointment by the several District Courts of one or more Commissioners in the several counties of their respective districts, with authority to perform Chamber business of the Judges of the District Courts and County Courts, and also to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.^b (Amendment, proposed 1861 ; ratified 3d September, 1862.)

Terms of Courts

SEC. 12. The times and places of holding the terms of the several Courts of record shall be provided for by law.^c (Amendment, proposed 1861 ; ratified 3d September, 1862.)

Fees and perquisites.

SEC. 13. No judicial officer, except Justices of the Peace, Recorders, and Commissioners, shall receive to his own use any fees or perquisites of office.^d (Amendment, proposed 1861 ; ratified 3d September, 1862.)

a. A County Clerk may issue process and attest proceedings of the Courts of which he is ex officio Clerk over his signature as County Clerk, and leave to the title of the proceedings or contents of the instruments the identification of the Courts to which they belong. (*Touchard vs. Crow*, 20 Cal. 150.)

b. Eleventh section of original article:

SEC. 11. No judicial officer, except a Justice of the Peace, shall receive to his own use any fees or perquisites of office.

Under the eleventh section of the original article: Held, that when the constitution exempted Justices of the Peace from the operation of the restraint in regard to fees and perquisites, it meant to exempt those also, by whatever name called, who were intrusted with the duties assigned to Justices, and that consequently the Recorder of the City of Sacramento was entitled to collect fees. (*Curtis vs. Sacramento*, 13 Cal. 290.)

c. The Constitution does not require that the District Courts shall be held at the county seats. (*Upham vs. Sutter County*, 8 Cal. 378.)

The Constitution does not prohibit the Legislature from authorizing a judgment to be entered in vacation. (*People vs. Jones*, 20 Cal. 50.)

d. Thirteenth section of original article:

SEC. 13. Tribunals for conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obliga-

Publication of opinions of Supreme Court.

SEC. 14. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient; and all opinions shall be free for publication by any person. (Amendment, proposed 1861; ratified 3d September, 1862.)

Compensation of Judges.

SEC. 15. The Justices of the Supreme Court, District Judges, and County Judges, shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected: *provided*, that County Judges shall be paid out of the county treasury of their respective counties." (Amendment, proposed 1861; ratified 3d September, 1862.)

Disabilities of Judges.

SEC. 16. The Justices of the Supreme Court, and the District Judges, and the County Judges, shall be ineligible to any other office than a judicial office during the term for which they shall have been elected. (Amendment, proposed 1861; ratified 3d September, 1862.)

Charge to juries.

SEC. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.^a (Amendment, proposed 1861; ratified 3d September, 1862.)

Style of process.

SEC. 18. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their

tory on the parties, except they voluntarily submit their matters in difference, and agree to abide the judgment, or assent thereto in the presence of such tribunal, in such cases as shall be prescribed by law.

Since the occupation of California by the Americans, the Mexican proceeding of conciliation has been deemed a useless formality. (Von Schmidt vs. Huntington, 1 Cal. 55.)

a. The provisions respecting the salaries of District Judges do not exempt those officers from the necessity of an appropriation for that purpose by the Legislature. (Myers vs. English, 9 Cal. 341.)

b. The seventeenth section of the original article was in the same words.

The question of fraudulent intent is a question of fact; but where the law declares certain facts conclusive evidence of fraud, a verdict against such conclusion will be set aside. (Billings vs. Billings, 2 Cal. 107.)

It is error for a Court to charge a jury as to a question of fact or as to the weight of evidence. (Battersby vs. Abbot, 9 Cal. 565.)

This provision is violated whenever a Judge so instructs as to force the jury to a particular conclusion upon the whole or any part of a case, or to take away their exclusive right to weigh the evidence and determine the facts. And such an error would *prima facie* be sufficient cause for reversing a judgment; but no more importance is to be attached to an error of this kind than any other. (People vs. Ybarra, 17 Cal. 166.)

The right of a Judge to state the evidence includes the right to state that there is no evidence as to particular facts. (People vs. Dick, 34 Cal. 663.)

name and by their authority. (Amendment, proposed 1861; ratified 3d September, 1862.)

Effect of amendments.

SEC. 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article six by the Legislature of eighteen hundred and sixty-one, no officer shall be superseded thereby, nor shall the organization of the several Courts be changed thereby, until the election and qualification of the several officers provided for in said amendments.* (Amendment, proposed 1861; ratified 3d September, 1862.)

ARTICLE VII.

MILITIA.

Organization and discipline.

SECTION 1. The Legislature shall provide by law for organizing and disciplining the militia in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Officers.

SEC. 2. Officers of the militia shall be elected or appointed in such a manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor.

Governor to call out.

SEC. 3. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE VIII.

STATE DEBTS.

Restrictions on legislative power.

SECTION 1. THE LEGISLATURE SHALL NOT IN ANY MANNER CREATE ANY DEBT OR DEBTS, LIABILITY OR LIABILITIES, WHICH SHALL SINGLY, OR IN THE AGGREGATE, WITH ANY PREVIOUS DEBTS OR LIABILITIES,

a. The jurisdiction of the old Courts continued unimpaired until the organization of the new Courts by which they were to be superseded. (Gillias vs. Barnet, 38 Cal. 393.)

EXCEED THE SUM OF THREE HUNDRED THOUSAND DOLLARS, EXCEPT IN CASE OF WAR, TO REPEL INVASION, OR SUPPRESS INSURRECTION, UNLESS THE SAME SHALL BE AUTHORIZED BY SOME LAW FOR SOME SINGLE OBJECT OR WORK, TO BE DISTINCTLY SPECIFIED THEREIN, WHICH LAW SHALL PROVIDE WAYS AND MEANS, EXCLUSIVE OF LOANS, FOR THE PAYMENT OF THE INTEREST OF SUCH DEBT OR LIABILITY, AS IT FALLS DUE, AND, ALSO, PAY AND DISCHARGE THE PRINCIPAL OF SUCH DEBT OR LIABILITY WITHIN TWENTY YEARS FROM THE TIME OF THE CONTRACTING THEREOF, AND SHALL BE IRREPEALABLE UNTIL THE PRINCIPAL AND INTEREST THEREON SHALL BE PAID AND DISCHARGED; BUT NO SUCH LAW SHALL TAKE EFFECT UNTIL, AT A GENERAL ELECTION, IT SHALL HAVE BEEN SUBMITTED TO THE PEOPLE, AND HAVE RECEIVED A MAJORITY OF ALL THE VOTES CAST FOR AND AGAINST IT AT SUCH ELECTION; AND ALL MONEY RAISED BY AUTHORITY OF SUCH LAW SHALL BE APPLIED ONLY TO THE SPECIFIED OBJECT THEREIN STATED, OR TO THE PAYMENT OF THE DEBT THEREBY CREATED; AND SUCH LAW SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER IN EACH JUDICIAL DISTRICT, IF ONE BE PUBLISHED THEREIN, THROUGHOUT THE STATE, FOR THREE MONTHS NEXT PRECEDING THE ELECTION AT WHICH IT IS SUBMITTED TO THE PEOPLE."

a. The meaning of this section is too plain to permit the Courts to resort to rules of construction to alter it. Hence, the Act of April 8, 1855, providing for the construction of a wagon road to the Sierra Nevada, and authorizing the Board of Commissioners to contract for the same at a price not exceeding three hundred thousand dollars, while the existing indebtedness of the State exceeded that sum (said Act containing no provision for submission of the question), was void. (*People vs. Johnson*, 6 Cal. 499.)

The Act of April 18, 1856, providing for the erection of a State Capitol at a cost not to exceed three hundred thousand dollars, held void. (*Nougues vs. Douglass*, 7 Cal. 65.)

This article is an express restriction upon the powers of the Legislature, and there is no power in the judiciary to set it aside, whatever inconvenience may result from a legitimate application of the provision. (*Id.*)

All debts contracted in violation of this article are void, and the Legislature has no power to levy a tax or appropriate money for the payment thereof. (*Id.*)

This article only applies to the State as a corporation, and does not prevent the State authorizing counties or municipal corporations to create debts, when the debt of the State itself is up to the constitutional limits. (*Pattison vs. Yuba County*, 13 Cal. 175.)

The Act of March 21, 1856, creating a Board of State Prison Commissioners, and defining their duties, does not violate this article. It does not create a debt or liability against the State. Though under the contract with Estill provided for the payment to him of ten thousand dollars per month, there could be no debt on the part of the State until the services were rendered. (*California vs. McCauley*, 15 Cal. 429.)

Taxes are not "debts" within the meaning of this article. (*Perry vs. Washburn*, 20 Cal. 318.)

The evident intention was to impose limitations upon the general power of the Legislature to create debts, leaving it free, however, from such restrictions in great emergencies caused by war, invasion, or insurrection. (*Franklin vs. State Board of Examiners*, 23 Cal. 173.)

A law which appropriates a sum of money for the future, and directs certain payments to be made out of the same at designated periods from year to year thereafter, and, also, imposes a special tax, and sets apart the proceeds thereof as a fund to meet the sums to be paid as they become payable, does not create a debt within the meaning of the prohibitory clause of the Constitution. (*People vs. Pacheco*, 27 Cal. 175.)

ARTICLE IX.

EDUCATION.

Superintendent of Public Instruction.

SECTION 1. A Superintendent of Public Instruction shall, at the special election for judicial officers to be held in the year eighteen hundred and sixty-three, and every four years thereafter at such special elections, be elected by the qualified voters of the State, and shall enter upon the duties of his office on the first day of December next after his election. (Amendment, proposed 1861; ratified 3d September, 1862.)

Duties of Legislature—School Fund.

SEC. 2. The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. eighteen hundred and forty-one; and all estates of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.*

Schools.

SEC. 3. The Legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each district at least three months in every year; and any school district neglecting to keep and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

a. The provision of the Act of April 22, 1861, requiring that the proceeds of sales of the sixteenth and thirty-sixth sections shall constitute a State fund instead of being applied for the benefit of the townships in which the bonds are situated, is constitutional and valid. (Wyman vs. Banvard, 22 Cal. 524.)

The School Land Act of April 26, 1858, is not a grant of the interest-money to the several townships, but merely a provision as to the manner in which a certain fund shall be appropriated, and subject, therefore, to the future control of the Legislature. (Id.)

This clause includes, as "means," any fund arising from taxation for school purposes, levied under general laws passed for that purpose; so that an Act diverting such fund to any other than school purposes is unconstitutional. (Crosby vs. Lyon, 37 Cal. 242.)

University.

SEC. 4. The Legislature shall take measures for the protection, improvement, or other disposition of such lands as may have been or may hereafter be reserved or granted by the United States, or any person or persons, to the State for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, with such branches as the public convenience may demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the Legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

ARTICLE X.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

Proposal of amendments—Submission to people.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their Journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become part of the Constitution.

Convention.

SEC. 2. And if, at any time, two-thirds of the Senate and Assembly shall think it necessary to revise or change this entire Constitution, they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against a Convention; and

if it shall appear that a majority of the electors, voting at such election, have voted in favor of calling a Convention, the Legislature shall, at its next session, provide, by law, for calling a Convention, to be holden within six months after the passage of such law; and such Convention shall consist of a number of members not less than that of both branches of the Legislature. The Constitution that may have been agreed upon and adopted by such Convention shall be submitted to the people at a special election, to be provided for by law, for their ratification or rejection; each voter shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed the words, "For the new Constitution," or "Against the new Constitution." The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the votes so certified to him. If, by such examination, it be ascertained that a majority of the whole number of votes cast at such election be in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California. (Amendment, proposed 1855; ratified 4th November, 1856.)

ARTICLE XI.

PROMISCUOUS PROVISIONS.

Seat of government.

SECTION 1. The first session of the Legislature shall be held at the Pueblo de San José; which place shall be the permanent seat of government until removed by law; *provided, however*, that two-thirds of all the members elected to each House of the Legislature shall concur in the passage of such law.*

Dueling.

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

a. After the first removal, a majority of the Legislature might at any time remove the Capital; consequently the Act of February 4, 1851, removing it to Vallejo, was constitutional. (*Ver-mule vs. Bigler*, 5 Cal. 23.)

Official oath.

SEC. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of —, according to the best of my ability."

And no other oath, declaration, or test shall be required as qualification for any office or public trust."

County and town government.

SEC. 4. The Legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the State.⁶

County Supervisors.

SEC. 5. The Legislature shall have power to provide for the election of a Board of Supervisors in each county; and these Supervisors shall jointly and individually perform such duties as may be prescribed by law.⁷

New offices and officers.

SEC. 6. All officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct.⁸

Terms of office.

SEC. 7. When the duration of any office is not provided for by

a. An attorney at law is not a person holding an "office of public trust," and may be required to file an affidavit of allegiance as prescribed by the Act of April 25, 1863, as a condition to practicing before the Courts. (Cohen vs. Wright, 22 Cal. 293.)

The terms "office" and "public trust" have relation only to those persons and duties that are of a public nature, and do not apply to the case of an attorney at law. (Ex parte Yale, 24 Cal. 241.)

b. This provision is to be considered directory, and the authority to determine what measure of uniformity is practicable must be left to the Legislature. (People vs. Lake County, 33 Cal. 487.)

c. This section must be regarded as a limitation on the third article of the Constitution. From the necessity of the case, Supervisors exercise judicial, legislative, and executive powers in matters relating to the police and fiscal regulations of counties. (People vs. El Dorado County, 8 Cal. 58.)

d. The Constitution does not prohibit the Legislature from conferring on a voluntary association of persons, who are not citizens, such as the Board of Fire Underwriters of San Francisco, the power of electing a person to fill an office created by the Legislature. (In re Bulger, 45 Cal. 553.)

When the Constitution declares an office to be elective, it cannot be filled in any other mode; but when the office has been filled by election, the Legislature may extend the term of the incumbent, provided the whole term does not exceed the constitutional limit. (Christy vs. Supervisors of Sacramento County, 39 Cal. 3.)

this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office, not fixed by this Constitution, ever exceed four years.^a

Fiscal year.

SEC. 8. The fiscal year shall commence on the first day of July.

Support of county and inferior officers.

SEC. 9. Each county, town, city, and incorporated village shall make provision for the support of its own officers, subject to such restrictions and regulations as the Legislature may prescribe.

Credit of State.

SEC. 10. THE CREDIT OF THE STATE SHALL NOT IN ANY MANNER BE GIVEN OR LOANED TO OR IN AID OF ANY INDIVIDUAL, ASSOCIATION, OR CORPORATION; NOR SHALL THE STATE, DIRECTLY OR INDIRECTLY, BECOME A STOCKHOLDER IN ANY ASSOCIATION OR CORPORATION.^b

Suits against State.

SEC. 11. Suits may be brought against the State in such a manner in such Courts as shall be directed by law.

Marriages.

SEC. 12. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

Taxation.

SEC. 13. TAXATION SHALL BE EQUAL AND UNIFORM THROUGHOUT

a. The Governor cannot remove from office a Notary Public, duly appointed, before his full term of office has expired. (Finlay vs. Jewett, 6 Cal. 291.)

This provision must be construed to deny the right of removal in those cases where the tenure is defined. (Id.)

A law which provides that an officer may be removed in a certain way, or for a certain cause, does not restrain or limit the power of removal to the cause or manner indicated. The only way in which this power of removal can be limited is by first fixing the duration or term of office, and then providing the mode, if deemed necessary, by which the officer may be removed during the term. (People vs. Hill, 7 Cal. 97.)

This clause does not mean that an office created by the Legislature shall cease to exist after four years; but that the term, fixed by the constituting authority and for which an incumbent holds by election or appointment, shall not extend beyond that limit. (People vs. Stratton, 28 Cal. 382.)

The Commissioners of the Funded Debt of the City of San Francisco were not officers within the meaning of this section, as their term was not limited to four years. (People vs. Middleton, 28 Cal. 663.)

b. The clause prohibiting the State from giving or loaning its credit to or in aid of a corporation does not prohibit it from appropriating its funds in time of war to aid a corporation in the construction of a railroad to be used by the State for military purposes. (People vs. Pacheco, 37 Cal. 175.)

THE STATE. ALL PROPERTY IN THIS STATE SHALL BE TAXED IN PROPORTION TO ITS VALUE, TO BE ASCERTAINED AS DIRECTED BY LAW; BUT ASSESSORS AND COLLECTORS OF TOWN, COUNTY, AND STATE TAXES SHALL BE ELECTED BY THE QUALIFIED ELECTORS OF THE DISTRICT, COUNTY, OR TOWN IN WHICH THE PROPERTY TAXED FOR STATE, COUNTY, OR TOWN PURPOSES IS SITUATED.*

a. This section applies only to direct taxation upon property, and does not prohibit the Legislature from enacting license laws. It may require the payment by foreigners of a license fee for the privilege of working the gold mines in the State. (*People vs. Naglee*, 1 Cal. 232.)

The Constitution provides that all property shall be taxed; but the *quo modo* is a matter of legislative control, and the statute must be steadily followed. (*De Witt vs. Hays*, 2 Cal. 463.)

It is not within the power of the Legislature to exempt any species of property, however owned, from taxation. That a steamboat is taxed in New York is no ground why it should not be taxed in California, when within its limits. (*Minturn vs. Hays*, 2 Cal. 590.)

The first clause of this section does not operate as a limitation on the taxing power of the Legislature, and apply to every species of taxation, but is to be taken as applying only to direct taxation on property as such. It does not require that all should be taxed alike. The power of the Legislature to tax trades, professions, and occupations, is a matter completely within its control, and rests in its sound discretion. (*People vs. Coleman*, 4 Cal. 46.)

The interest of the occupant of a mining claim is property, and it is within the power of the Legislature, under the Constitution, to tax such property. (*State vs. Moore*, 12 Cal. 56.)

This section applies only to that charge or imposition upon property which it is necessary to levy to raise funds to defray the expenses of the government of the State or of some county or town. It has no reference to special assessments for local improvements. For the expenses of such improvements it is competent for the Legislature to provide, either by general taxation upon the property of all the inhabitants of the county or town in which they are made, or upon property adjacent thereto and especially benefited thereby. (*Burnett vs. Sacramento*, 12 Cal. 76.)

The Legislature can impose a general tax upon all the property of the State, or a local tax upon the property of particular political subdivisions, as counties, cities, and towns. The cases in which its power shall be exercised, and the extent to which the taxation in a particular instance shall be carried, are matters exclusively within its own judgment, subject to the qualifications of equality and uniformity in the assessment. And, except as especially restricted, its power of appropriation of the moneys raised is co-extensive with its power of taxation. (*Blanding vs. Burr*, 13 Cal. 343.)

Assessors and Tax Collectors are constitutional officers, but it is not necessary that every portion of the revenue pass through their hands. The Legislature may authorize the taxpayer to pay his taxes directly into the treasury. (*People vs. Squires*, 14 Cal. 12.)

The foreign miners' license, though in some sense a tax, yet, probably, it is not so in the sense involved in the necessary duties of a Tax Collector. (*Id.*)

A Sheriff, being *ex officio* Tax Collector of foreign miners' licenses, may be deprived of the office of Tax Collector by the Legislature, before the expiration of his term. (*Id.*)

The Act of May 3, 1852, providing for the appointment of a Gauger for the Port of San Francisco, is constitutional. It does not violate the provision that taxation shall be equal and uniform, because the percentage allowed the Gauger is not a tax within the meaning of the Constitution. (*Addison vs. Saulnier*, 19 Cal. 82.)

The provision that taxation shall be equal and uniform is not violated by the Revenue Act of April 29, 1857, exempting church and school lands and lands of the United States from taxation. (*High vs. Shoemaker*, 22 Cal. 363.)

The words "taxation" and "taxes," as used in this section, do not apply to assessments levied upon city lots to pay for street improvements. (*Emery vs. S. F. Gas Co.*, 28 Cal. 345.)

The provisions of this section are limitations and not grants of power, but as limitations, are, according to their terms, mandatory upon the Legislature. (*People vs. McCreery*, 34 Cal. 432.)

The words "all property in this State" mean all property which is not public, and the Legislature has no power to exempt any private property from taxation. (*People vs. McCreery*, 34 Cal. 432.)

An Act providing for the assessment of railroad or other property by Assessors other than those in whose district the property is situated is unconstitutional. (*People vs. Placerville and S. V. R. R. Co.*, 34 Cal. 656.)

The Legislature may, by law, devolve the office and duties of Tax Collector upon the incumbent of any other elective office; but such law must precede the election of such officer, and his election must be by the qualified electors of the Tax Collector's district. (*People vs. Kelsey*, 34 Cal. 470.)

A statute exempting private property from taxation, and all parts thereof relating to such exemption, are unconstitutional and must be disregarded. (*People vs. Gerke*, 35 Cal. 677.)

An Act having the effect of exempting the property of a railroad from the payment of a school tax regularly levied is unconstitutional. (*Crosby vs. Lyon*, 32 Cal. 242.)

An Act taxing the property of a district for a local improvement, which exempts personal

Separate property.

SEC. 14. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.*

Homesteads.

SEC. 15. The Legislature shall protect by law, from forced sale, a certain portion of the homestead and other property of all heads of families.^b

Perpetuities.

SEC. 16. No perpetuities shall be allowed, except for eleemosynary purposes.

Bribery.

SEC. 17. Every person shall be disqualified from holding any office of profit in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

property from its operation, is unconstitutional, because not levied on all the property in the district. (People vs. Whyler, 41 Cal. 351.)

The word "property," as here used, includes not only visible and tangible property, but also choses in action, such as solvent debts secured by mortgage. (People vs. Eddy, 43 Cal. 331; Savings and Loan Society vs. Austin, 46 Cal. 415.)

Where an Act authorizes a tax for road purposes upon property along a road in a portion of a county, and providing that it should be assessed by the County Assessor, and it was so assessed: Held, that the assessment was void because not made by an Assessor elected by the electors of the district. (Williams vs. Corcoran, 46 Cal. 553.)

The Act creating a State Board of Equalization, which gave the Board power to fix the rate of taxation for State purposes, was not unconstitutional. (Savings and Loan Society vs. Austin, 46 Cal. 415; overruled in Houghton vs. Austin, 47 Cal. 646.)

The Legislature cannot authorize a Board of Supervisors to remit a tax, or part of a tax, within a specified district. (Wilson vs. Supervisors of Sutter County, 47 Cal. 91.)

a. This section is taken from the Constitution of Texas. It creates a capacity in the wife to hold separate property, and her title depends upon the mode of acquisition, and vests before the inventory can be filed. (Selover vs. American Russian Commercial Company, 7 Cal. 266.)

From the position that the capacity of the wife as to her separate property is equal to that of the husband as to his separate property, grave doubts exist as to the validity of some of the provisions of the statute relating to husband and wife. (Id.)

The term "separate property" is used in its common law sense, and means an estate, both in its use and in its title, for the exclusive benefit of the wife. Neither the husband nor his creditor can claim the proceeds or fruits of the separate estate of the wife. A law giving them such fruits is unconstitutional. (George vs. Ransom, 15 Cal. 222.)

The rights of married women to their separate property in California do not depend alone upon the common law or doctrines of Courts of equity, but mainly upon the Constitution and statutes. (MacLay vs. Love, 25 Cal. 367.)

This clause does not refer to the mode and form in which a wife shall convey her separate property, and, therefore, a statute requiring a deed conveying such separate property to be signed by the husband as well as the wife is not unconstitutional. (Dow vs. Gould and Curry S. M. Co., 31 Cal. 630.)

b. The Constitution is inoperative in itself, and looks to legislation to determine how far and in what manner the homestead should be protected from forced sale. (Cary vs. Tice, 6 Cal. 625.)

Right of suffrage.

SEC. 18. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

Residents absent.

SEC. 19. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

Plurality vote.

SEC. 20. A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this Constitution.

Publication of laws, etc.

SEC. 21. All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish.

ARTICLE XII.

BOUNDARY.

State boundary.

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of the said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line in a southeasterly direction to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, eighteen hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning.

Also, all the islands, harbors, and bays along and adjacent to the Pacific Coast.

SCHEDULE.

Mexican laws in force.

SECTION 1. All rights, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith, until altered or repealed by the Legislature, shall continue as if the same had not been adopted.

Removal of causes.

SEC. 2. The Legislature shall provide for the removal of all causes which may be pending, when this Constitution goes into effect, to Courts created by the same.

Change of government.

SEC. 3. In order that no inconvenience may result to the public service from the taking effect of this Constitution, no officer shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this Constitution.

Residence.

SEC. 4. The provisions of this Constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned, shall not be held to apply to officers chosen by the people at the first election, or by the Legislature at its first session.

Voters.

SEC. 5. Every citizen of California declared a legal voter by this Constitution, and every citizen of the United States a resident of this State on the day of election, shall be entitled to vote at the first general election under this Constitution, and on the question of the adoption thereof.

Constitution to be submitted to people.

SEC. 6. This Constitution shall be submitted to the people for their ratification or rejection at the general election to be held on Tuesday, the thirteenth day of November next. The Executive of the existing government of California is hereby requested to issue a proclamation to the people, directing the Prefects of the several dis-

tricts, or, in case of vacancy, the sub-Prefects or Senior Judge of First Instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner which was prescribed for the election of Delegates to this Convention, except that the Prefect, sub-Prefect, or Senior Judge of First Instance, ordering such election in each district, shall have power to designate any additional number of places for opening the polls, and that, in every place of holding the election, a regular poll-list shall be kept by the Judges and Inspectors of Election. It shall also be the duty of these Judges and Inspectors of Election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written or printed, "For the Constitution," or "Against the Constitution," or some such words as will distinctly convey the intention of the voter. These Judges and Inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the Judges and Inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the Prefect, sub-Prefect, or Senior Judge of First Instance, as the case may be, of their respective districts; and said Prefect, sub-Prefect, or Senior Judge of First Instance, shall transmit one of the same, by the most safe and rapid conveyance, to the Secretary of State. Upon the receipt of said returns, or on the tenth day of December next, if the returns be not sooner received, it shall be the duty of a Board of Canvassers, to consist of the Secretary of State, one of the Judges of the Superior Court, the Prefect, Judge of First Instance, and an Alcalde of the District of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the Executive will also, immediately after ascertaining that the Constitution has been ratified by the people, make proclamation of the fact; and thenceforth this Constitution shall be ordained and established as the Constitution of California.

Transmission to Congress.

SEC. 7. If this Constitution shall be ratified by the people of California, the Executive of the existing government is hereby requested, immediately after the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the

President of the United States, in order that he may lay it before the Congress of the United States.

Election of officers.

SEC. 8. At the general election aforesaid, viz., the thirteenth day of November next, there shall be elected a Governor, Lieutenant-Governor, members of the Legislature, and also two members of Congress.

Meeting of Legislature.

SEC. 9. If this Constitution shall be ratified by the people of California, the Legislature shall assemble at the seat of government on the fifteenth day of December next; and, in order to complete the organization of that body, the Senate shall elect a President pro tempore, until the Lieutenant-Governor shall be installed into office.

Report of Canvassers.

SEC. 10. On the organization of the Legislature, it shall be the duty of the Secretary of State to lay before each House a copy of the abstract made by the Board of Canvassers, and, if called for, the original returns of election, in order that each House may judge of the correctness of the report of said Board of Canvassers.

Legislative elections—United States Senators.

SEC. 11. The Legislature, at its first session, shall elect such officers as may be ordered by this Constitution to be elected by that body, and, within four days after its organization, proceed to elect two Senators to the Congress of the United States. But no law passed by this Legislature shall take effect until signed by the Governor after his installation into office.

Application for admission into the Union.

SEC. 12. The Senators and Representatives to the Congress of the United States elected by the Legislature and people of California, as herein directed, shall be furnished with certified copies of this Constitution, when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the people of California, the admission of the State of California into the American Union.

Installation of officers.

SEC. 13. All officers of this State, other than members of the Leg-

islature, shall be installed into office on the fifteenth day of December next, or as soon thereafter as practicable.

Appointment of legislators.

SEC. 14. Until the Legislature shall divide the State into counties, and senatorial and assembly districts, as directed by this Constitution, the following shall be the apportionment of the two Houses of the Legislature, viz.: The Districts of San Diego and Los Angeles shall jointly elect two Senators; the Districts of Santa Barbara and San Luis Obispo shall jointly elect one Senator; the District of Monterey, one Senator; the District of San José, one Senator; the District of San Francisco, two Senators; the District of Sonoma, one Senator; the District of Sacramento, four Senators; and the District of San Joaquin, four Senators. And the District of San Diego shall elect one member of Assembly; the District of Los Angeles, two members of Assembly; the District of Santa Barbara, two members of Assembly; the District of San Luis Obispo, one member of Assembly; the District of Monterey, two members of Assembly; the District of San José, three members of Assembly; the District of San Francisco, five members of Assembly; the District of Sonoma, two members of Assembly; the District of Sacramento, nine members of Assembly; and the District of San Joaquin, nine members of Assembly.

Salaries.

SEC. 15. Until the Legislature shall otherwise direct, in accordance with the provisions of this Constitution, the salary of the Governor shall be ten thousand dollars per annum; and the salary of the Lieutenant-Governor shall be double the pay of a State Senator; and the pay of members of the Legislature shall be sixteen dollars per diem, while in attendance, and sixteen dollars for every twenty miles' travel, by the usual route, from their residences to the place of holding the session of the Legislature, and in returning therefrom. And the Legislature shall fix the salaries of all officers, other than those elected by the people at the first election.

State expenditures.

SEC. 16. The limitation of the powers of the Legislature contained in article eight of this Constitution shall not extend to the first Legislature elected under the same, which is hereby authorized to nego-

tiate for such amount as may be necessary to pay the expenses of the State Government.

R. SEMPLE,

President of the Convention, and Delegate from Benicia.

WM. G. MARCY, Secretary.

J. ARAM,
C. T. BOTTS,
E. BROWN,
J. A. CARRILLO,
J. M. COVARRUBIAS,
E. O. CROSBY,
P. DE LA GUERRA,
L. DENT,
M. DOMINGUEZ,
K. H. DIMMICK,
A. J. ELLIS,
S. C. FOSTER,
E. GILBERT,
W. M. GWIN,
H. W. HALLECK,
JULIAN HANKS,
L. W. HASTINGS,
HENRY HILL,
J. HOBSON,
J. McH. HOLLINGSWORTH,
J. M. JONES,
J. D. HOPPE,
T. O. LARKIN,
FRANCIS J. LIPPITT,

B. S. LIPPINCOTT,
M. M. McCARVER,
JOHN McDOUGAL,
B. F. MOORE,
MYRON NORTON,
P. ORD,
MIGUEL PEDRORENA,
A. M. PICO,
R. M. PRICE,
HUGO REID,
JACINTO RODRIGUEZ,
PEDRO SANSEVAINE,
W. E. SHANNON,
W. S. SHERWOOD,
J. R. SNYDER,
A. STEARNS,
W. M. STEUART,
J. A. SUTTER,
HENRY A. TEFFT,
S. L. VERMEULE,
M. G. VALLEJO,
J. WALKER,
O. M. WOZENCRAFT.

GENERAL RAILROAD LAW OF 1861.

CHAPTER DXXXII.—*An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto.*

[Approved May 20, 1861.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. Any number of persons, not less than ten, either in this State, or through any portion of the Territories of the United States, contiguous to this State, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning, and maintaining such railroad, by complying with the following requirements: Whenever stock to the amount of at least one thousand dollars for each and every mile of the proposed railroad shall have been so subscribed, and ten per cent. in cash of the amount so required to be subscribed shall be actually and in good faith paid to a Treasurer, to be named and appointed by said subscribers from among their number, then the said subscribers, either in person or by written proxy, after having received at least five days' notice from said Treasurer of a meeting of said subscribers for that purpose, may adopt articles of association, and may elect from among the subscribers to said articles not less than five nor more than thirteen directors.

Formation of corporation.

Stock one thousand dollars per mile.

Ten per cent. paid.

Notice of meeting.

Elect directors.

SEC. 2. The said articles of association shall set forth the name of the incorporation, the number of years the same is to continue in existence, which shall not exceed fifty years, the amount of the capital stock of the company, which shall be divided into shares of one hundred dollars each, and which shall be the actual contemplated cost of constructing the road, together with the cost of the right of way, motive power, and every other appurtenance and thing for the completion and running of said road, as nearly as can be esti-

Articles of association.

Form of.

Amount of stock.

Number of shares.

Names of directors.	mated by competent engineers; the names and number of the directors to manage the affairs of the company, who shall hold there office until others are elected, as shall be
Terminal of road.	provided by the by-laws of the company; the place from and to which the proposed road is to be constructed, and the counties into and through which it is intended to pass, and its length, as near as may be. Each subscriber to such articles of association shall personally subscribe thereto his name, place of residence, and the number of shares of stock taken by him in such company; <i>provided</i> , that in case a person desirous of becoming a subscriber, but compelled to be absent from the State at the time of subscribing to such articles of association, he having duly paid the ten per cent. required by law upon his subscription, may sign the same
Affidavit of three directors.	by written proxy or power of attorney, to that effect; and there shall be indorsed or attached to the said articles so subscribed an affidavit, made by any three of the directors named therein, setting forth in substance that said amount of stock has been subscribed, and that ten per cent. in cash thereon has actually and in good faith been paid in as aforesaid, and that the subscribers to said articles are all known by one or the other of the said three directors to be subscribers thereto, and to be the persons so represented.
Articles to be filed.	SEC. 3. Articles of association formed in pursuance of the provisions of the foregoing sections shall be filed in the office of the Secretary of State; and thereupon the persons who have or may subscribe the same, and all persons who may, from time to time, become stockholders in such company, shall be a body politic and corporate, by the name stated in such articles of association, and shall be capable in law to make all contracts, acquire real and personal property, purchase, hold, convey, any and all real and personal property whatever necessary for the construction, completion, and maintenance of such railroad, and for the erection of all necessary buildings and yards, or places and appurtenances for the use of the same; and be capable of suing and being sued, and have a common or corporate seal, and make and alter the same at pleasure, and generally to possess all the powers and privileges for the purpose of carrying on the business of the corporation that private individuals and natural persons now enjoy. A copy of any articles of association filed in pursuance of this Act, and certified to be a
Corporate powers.	
Corporate seal.	
Certified copy evidence.	

copy by the Secretary of State or his deputy, shall in all Courts and places be presumptive evidence of the incorporation of such company, and of the facts stated therein; and such a copy so certified shall be kept in the office of the Secretary of the corporation, subject to examination during office hours by any person.

Kept in
office of
company.

SEC. 4. The directors named in the articles of association shall meet and organize as a Board immediately after their election, or within five days after having received notice of such election, given by the Treasurer named and designated in the first section of this Act; and at the first meeting of the Board, after each annual election of directors, they shall elect from among their number a President and a Treasurer; they shall also elect a Secretary, who, and their successors in office, shall be officers of the company, and shall hold their respective offices until their successors have been duly elected and qualified. The Secretary and the Treasurer, before they enter upon the discharge of their duties, shall each give a bond, with sufficient surety, for the faithful performance of their respective duties, to be approved by the Board of Directors. The temporary Treasurer required by the first section of this Act shall pay over all moneys received by him as such Treasurer to the Treasurer elected by the Board of Directors, so soon as the latter has been qualified. The said Board of Directors, and every succeeding Board, when deemed necessary, shall open books of subscription to the capital stock of the company, at such times and in such places, upon such terms, and authorize such persons to receive and superintend the taking of such subscriptions as they may direct, due notice of which shall be given; but no subscription of stock, except the original subscription, shall be binding on the company, or parties so subscribing, until the same shall have been accepted and approved by a resolution of the Board. In case a greater amount of acceptable stock shall be subscribed than the whole capital required by such company, the Board of Directors shall distribute such capital stock so subscribed as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any one subscriber than by him subscribed for.

Directors to
organize as
Board.

Election of
officers.

Bonds of
officers.

Opening of
stock books.

Stock to be
approved by
Board.

Distribution
of stock.

Meetings of
stockhold-
ers.

SEC. 5. There shall be, after the first election of direct-

Notice.	ors, as prescribed in the first section of this Act, annual meetings of the stockholders, held at the principal place of business of said company, for the election of directors, to serve for the ensuing year, notice of which, appointing a time, shall be given for the first annual election, and every subsequent election thereafter, as prescribed by the by-laws of the company, or by a resolution of the Board of Directors, which notice shall be published not less than twenty days previous thereto, in a newspaper published in each county through or into which such road shall pass or be intended to run (if there be stockholders residing therein), in which a newspaper shall be published; and if no newspaper is published therein, then by six written or printed notices, put up in the most public places in said county. Directors shall be elected from time to time, as a majority of the whole stock shall determine, or as the by-laws shall designate, as may be determined in the formation of articles of association, in pursuance of the provisions of the first and second sections of this Act, shall be chosen at such meetings of stockholders, by ballot and by a majority of the votes of the stockholders, being present in person or by written proxy; and every such stockholder, being so present either in person or by proxy at any election for directors, shall be entitled to give one vote for every share of stock which he may have owned for ten days next preceding said elections; but no stockholder shall vote at any such election upon any stock except such as he shall have owned for ten days. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he may be chosen. The directors shall hold their office for one year, and until others are elected in their places. At least a majority of the directors shall, at the time of their election, be residents of the State. (Amendment approved April 1, 1870.)
How published.	
Election of directors.	
By ballot.	
Voters.	
Qualifications of directors.	
Term of office.	
Special meetings of stockholders.	SEC. 6. Meetings of stockholders may be called at any time during the interval between the annual meetings, by the directors, or by any number of stockholders owning not less than one-third of the stock, by giving thirty days' public notice of the time and place of the meetings in the manner provided in the next preceding section for the annual meetings; and when any such meeting is called by the stockholders, the particular object of such meeting shall be stated in
Notice of.	
Objects stated.	

such notice, and no other business shall be transacted at such meeting when so called by the stockholders as afore-said, except such as shall be so stated in such notice; and if at any such meeting thus called a majority in value of the stockholders are not represented in person or by written proxy, such meetings shall be adjourned from day to day, not exceeding three days, without transacting any business; and if within said three days stockholders having at least a majority in interest of the stock do not attend and participate in such meeting, then the meeting shall be dissolved. In case the capital stock shall be ascertained to be greater or less than is necessary for completing, operating, and maintaining the road, then the capital stock may be reduced or increased by a vote of the holders of a majority of the capital stock, to the amount thus required. (Amendment approved April 27, 1863.)

Majority present.

Adjournment.

Capital stock may be reduced or increased.

SEC. 7. At all general meetings of the stockholders, two-thirds in value of the stockholders of the company being present in person or by proxy, may remove any President or any director of such company, and elect others in their stead; *provided*, notice of such intended removal shall have been given as required in the two last preceding sections.

Removal of officers by stockholders.

SEC. 8. In case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved, if within ninety days thereafter they shall hold an election for directors in such manner as shall be provided by the by-laws of the company. There shall also be a Vice-President of the company, should the directors deem it necessary, to be chosen from the Board; and also such subordinate officers as the company, by its by-laws, may designate, who need not necessarily be stockholders. The said officers shall be chosen at such times and for such terms, and the directors may fix the compensation of each, and they shall give such security for the faithful performance of the duties of their respective offices as the directors shall require, or as may be established by the by-laws of the company; and any such officers may be removed from office by the Board of Directors, and the vacancy filled by said Board for the remainder of the term of office; and the directors of such company shall also have

Delay in election of directors.

Vice-President.

Subordinate officers.

Compensation and securities of.

Vacancies.

power to fill all vacancies in their own body, and of all officers of the company occasioned by death, resignation, or any other cause whatever.

Powers of
directors.

SEC. 9. The directors of any railroad company heretofore incorporated, or which may be incorporated hereafter, from and after its incorporation or organization in pursuance of the provisions of this Act, or of any law now in force in this State, shall, for and on behalf of such company, manage the affairs thereof, make and execute contracts of whatsoever nature or kind, fully and completely to carry out the objects and purposes of such corporation in such way and manner as they may think proper, and exercise generally the corporate powers of such company. And such directors shall also have full power to make such by-laws as they may think proper, and alter the same from time to time, for the transfer of the stock and the management of the property and business of the company, of every description whatsoever, within the objects and purposes of such company, and for prescribing the duties of officers, artificers, and employes of said company, and for the appointment of all officers and all else that by them may be deemed needful and proper within the scope and power of said company; *provided*, that such by-laws shall not be inconsistent or in conflict with the laws of this State, or with the articles of association; *provided*, that such by-laws shall be approved by a majority of the stockholders, and shall not be inconsistent or in conflict with the laws of this State, or with the articles of association. (Amendment approved April 27, 1863.)

By-laws.

Stockhold-
ers to
approve.

Record of
debts.

Open to
inspection.

Duties of
Secretary.

SEC. 10. The directors shall also cause to be kept a book to be called "Record of Corporation Debts," in which the Secretary shall record all contracts of the directors, and a succinct statement of the debts of the company, the amount thereof, and with whom made; which book shall at all times be open to the inspection of any stockholder or party in interest. When any contract or debt shall be paid or discharged, the Secretary shall make a memorandum thereof in the margin or in some convenient place in the record where the same is recorded. (Amendment approved March 20, 1866.)

SEC. 11. The Secretary of the corporation who may be elected by the directors named in the articles of association, and every succeeding Secretary elected during the continu-

ance of said corporation, shall keep, in a book provided for that purpose, a correct record of the proceedings at each meeting of the company, as well as of the Board of Directors; such record showing the name of each director present at the opening of each meeting of the Board, and at what stage of the proceedings any director, previously absent, may appear, and also at what stage of the proceedings any director may obtain leave of absence. The record shall also show the name of each director voting against any proposition whenever any director may require the same to be placed upon the record. Prior to the adjournment of each meeting of the company, or of the Board of Directors, the record of the proceedings of such meeting shall be read and approved; and he shall also keep such other books as may be deemed necessary or prescribed by the directors, in which all the business transactions of the company shall be plainly and accurately kept; he shall keep a book to be labeled "Book of Stockholders," which shall contain the names of all persons, alphabetically arranged, who are or shall have been stockholders of said company, and showing their places of residence, if known, the number of shares of stock held by them respectively, the time when they respectively became the owners of such shares, the amount of cash actually paid to the company by them respectively for their stock, as also the time when they may have ceased to be stockholders, which book, during the office hours of said Secretary, shall be open for the inspection of stockholders and creditors of the company, and their personal representatives, at the office of said Secretary. There shall also be kept by the Secretary a transfer book, in which all transfers of stock shall be duly entered, and no transfer of stock of such company shall be valid for any purpose whatever, except as between the parties thereto, until it shall have been entered therein by an entry showing to and by whom transferred, the numbers and designation of the shares, and the date of transfer, and duly attested by said Secretary; and said book shall be presumptive evidence of the facts therein stated.

SEC. 12. The stock of such company shall be deemed personal estate, and shall be transferable in the manner provided by the preceding section, and upon the books of the company, upon proper assignment and delivery to the assignee of the receipts for the installments paid on such stock,

Record of
proceedings
of Board and
of company.

When read
and
approved.

Other books.

Book of
stockhold-
ers.

What to
contain.

Stock trans-
fer book.

Transfer,
when valid.

Capital
stock.

How trans-
ferred.

Installments to be first paid. or the certificates of stock when fully paid; but no shares shall be transferable until all previous calls or installments thereon shall have been fully paid in; nor shall any transfer of the stock of such company be valid, except as between the parties by whom and to whom the same is transferred, until at least twenty per cent. has been paid thereon, and certificates issued therefor, until the same is approved by the Board of Directors. Any stockholder transferring his shares of stock in manner aforesaid, and in compliance with the by-laws of the company, and the same being approved by the Board of Directors, as aforesaid, shall, from and after the date of such approval, cease to be a stockholder in such company, and shall not be liable to any future calls from the directors, nor for any debts that may be contracted by said company thereafter. But this shall not release him from his proportion of debts and liabilities contracted by the company prior to his ceasing to be a stockholder; but each stockholder of such company shall only be individually liable to the creditors of such company for his proportion—that is to say, the proportion that the amount of stock by him held bears to the whole amount of the capital stock of such company of all the debts and liabilities of the company contracted or incurred during the time that he was a stockholder, for the recovery of which joint or several actions may be prosecuted by such creditor; but no person holding stock as executor, administrator, guardian, or trustee, or holding it as collateral security or in pledge, shall be personally liable or subject to any debt or liability as a stockholder of the company; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of the executor, administrator, guardian, or trustee shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in the trust fund would have been if he had been living and competent to act and hold the stock in his own name; *provided*, that in no case shall judgment be rendered against an individual stockholder, or his private property be levied upon, for the payment of corporate debts, while corporate property can be found with which to satisfy the same, and in no case only to the amount of such stockholder's proportion of liability, as before provided. But it will be sufficient proof that no

Approved by Board.

When liability ceases.

Liability for debts.

Corporate property first taken.

corporate property can be found if an execution has issued on a judgment against the corporation, and a demand made thereon of some one of the last acting officers of the corporation, for property on which to levy, and he neglects or refuses to point out any such property, and the stockholders likewise so neglect or refuse, and the said execution is returned by the officer who holds the same for service, to the Court from whom it was issued, indorsed in substance, "that no property belonging to said corporation can be found to levy upon sufficient to satisfy said execution, or any part thereof." But if any stockholder of such corporation, in any stage of the cause, shall satisfy the Court, by affidavit or otherwise, of such property subject to levy, all proceedings against any individual stockholder shall be stayed until the property of the corporation can be levied upon and sold. The Court may subsequently render judgment and order execution against any or all of the individual stockholders for their proportion—that is to say, in proportion to the amount of stock held by each for any balance of the debts and liabilities of such corporation which may be found due, after exhausting the corporate property of such corporation, as before provided. When the private property of a stockholder is taken for a corporate debt, or he may otherwise pay or discharge the same without levy and sale of his property, he may maintain an action against the corporation for indemnity, and against any of the stockholders for contribution. (Amendment approved April 27, 1863.)

Execution
returned "no
property."

Stay of
proceedings.

Judgment
against
stockhold-
ers.

Suit for con-
tribution.

SEC. 13. It shall be lawful for the directors of such company to call in and demand from the stockholders the sums by them subscribed, in equal installments, of not more than ten per cent. per month, unless otherwise stipulated in the articles of subscription, at such times as they may deem proper. Notice of each assessment shall be given to the stockholders personally, or shall be published once a week, for at least four weeks, in a newspaper published at the place designated as the principal place of business of the corporation, or if none is published there, in some newspaper nearest to such place, which notice shall be substantially in the following form:

Directors to
call for in-
stallments.

Notice to be
given.

Notice is hereby given that an assessment of — dollars per share on the stock of — Company is due and payable

Form of
notice.

at the office of the company, in — (and at such other places as the directors may designate, naming them), within thirty days from date. All shareholders are requested to make payment on or before that time, or such assessments will be promptly collected in the manner prescribed by law.

— —, Secretary.

Assessments
collected by
suits or sale
of stock.

If, after such notice shall have been given, any stockholder shall make default in the payment of the assessment upon the shares held by him, the same may be collected by suit in any Court of competent jurisdiction, in the name of the company, or so many of such shares may be sold as will be necessary for the payment of the assessment on all the shares held by him. The sale of said shares shall be made as prescribed in the by-laws of the company; *provided*, that no sale shall be made, except at public auction, to the highest bidder; and at such sale the person who will agree to pay the assessment so due, together with the expenses of advertisement and the other expenses of sale, for the smallest number of whole shares, shall be deemed to be the highest bidder. All stockholders shall be liable to such sale, and to recovery by suit at law as aforesaid, for installments due or required to be paid by such directors, as prescribed by this Act. Any railroad corporation, organized under the Act to which this is amendatory, shall have the right to lease the whole or any portion of their road to any other corporation organized under this Act, or to grant to any such corporation the right to use in common any portion of their road. (Amendment approved April 27, 1863.)

Stockhold-
ers liable to
suit or sale
of stock.

Lease of
road—use of
same in
common.

Certificates
of stock.

SEC. 14. Certificates of stock shall be issued, signed by the President and Secretary, in such manner as may be prescribed by the by-laws of the company, for all stock fully paid up, from time to time, in compliance with the requirements of such directors, or that may be fully paid in advance of such requirements by the voluntary act of any stockholder of such company.

May borrow
money.

SEC. 15. Such company shall have power to borrow, from time to time, on the credit of the corporation, and under such regulations and restrictions as the directors thereof by unanimous concurrence may impose, such sums of money as they may deem necessary for constructing and completing their railroad, and to issue and dispose of bonds or promis-

sory notes therefor, in denominations of not less than five hundred dollars, and at a rate of interest not exceeding ten per cent. per annum; and also to issue bonds or promissory notes, of the denomination aforesaid, and at the rate of interest aforesaid, in payment of any debts or contracts for constructing and completing their road, with its equipments and all else relative thereto; *provided, however,* that the amount of bonds or promissory notes, issued by such companies for the purposes aforesaid, shall not exceed, in all, the amount of their capital stock; and to secure the payment of said bonds or notes, may mortgage their corporate property and franchise. And the directors of such companies shall also provide, in such manner as to them may seem best, a sinking fund, to be specially applied to the redemption of such bonds, on or before their maturity, and may also confer on any holder of any bond or note so issued for money borrowed, or in payment of any debt or contract for the construction and equipment of said road as aforesaid, the right to convert the principal due or owing thereon, into stock of such companies, at any time within eight years from the date of such bonds, under such regulations as the directors may adopt. (Amendment approved May 14, 1862.)

May issue
bonds

Mortgage
corporate
property.

Redemption
of bonds.

Convert the
same into
stock.

SEC. 16. The President and Secretary, and a majority of the directors, within thirty days after the payment of the last installment of the capital stock, so fixed and limited by the company, shall make a certificate stating the amount of capital so fixed and paid in, which certificate shall be signed by the President and Secretary, and a majority of the directors, and sworn to by such President and Secretary, and they shall, within the said thirty days, file the same in the office of the Secretary of State.

Capital fully
paid in.

Certificates
thereof.

SEC. 17. Every railroad corporation shall have power:

Corporate
powers.
To make
surveys.

First—To cause such examination and surveys for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad, and for such purposes, by their officers, agents, and employes, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Second—To receive, hold, take, and convey, by deed or otherwise, the same as a natural person might or could do, such voluntary grants and donations of real estate, and other property of every description as shall be made to it, to aid

Hold lands
donated.

and encourage the construction, maintenance, and accommodation of such railroad.

Purchase
lands.

Third—To purchase, and by voluntary grants and donations receive and take, and by its officers, engineers, surveyors, and agents enter upon and take possession of and hold and use, in any manner they may deem proper, all such lands and real estate, and other property, as the directors may deem necessary and proper for the construction and maintenance of such railroad, and for the stations, depots, and other accommodations and purposes deemed necessary to accomplish the objects for which the corporation is created.

Lay out
road.

Fourth—To lay out its road or roads, not exceeding nine rods wide, and to construct and maintain the same with a single or double track, with such appendages as may be deemed necessary for the convenient use of the same, and for the purpose of making embankments, excavations, ditches, drains, culverts, or otherwise, and procuring timber, stone, and gravel, or other materials, may take as much more land, whenever they may think proper, as may be necessary for the purposes aforesaid, in the manner hereinafter provided, for the proper construction and security of the road.

Material for
road.

Over roads
and waters.

Fifth—To construct their road across, along, or upon any stream of water, water-course, roadstead, bay, navigable stream, street, avenue, or highway, or across any railway, canal, ditch, or flume which the route of its road shall intersect, cross, or run along, in such manner as to afford security for life and property; but the corporation shall restore the stream or water-course, road, street, avenue, highway, railroad, canal, ditch, or flume thus intersected to its former state, as near as may be, or in a sufficient manner not to have unnecessarily impaired its usefulness or injured its franchises.

Join other
railroads.

Sixth—To cross, intersect, join, and unite its railroad with any other railroad, either before or after constructed, at any point upon its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings, and switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connection, and grant the facilities aforesaid; and if the two corporations cannot agree upon the

Compensa-
tion.

amount of compensation to be made therefor, or the points or the manner of such crossings, intersections, and connections, the same shall be ascertained and determined by Commissioners, to be appointed as is provided hereinafter, in respect to the taking of lands, but this section is not to affect the rights and franchises heretofore granted. How fixed.

Seventh—To purchase lands, timber, stone, gravel, or other materials, to be used in the construction and maintenance of its road, or take them in the manner provided by this Act; may change the line of its road, in whole or in part, whenever a majority of the directors shall so determine, as is provided hereinafter; but no such change shall vary the general route of such road, as contemplated in the articles of association of such company. Purchase land and materials. Change of line.

Eighth—To receive, by purchase, donation, or otherwise, any lands or other property of any description, and to hold and convey the same in any manner the directors may think proper, the same as natural persons might or could do, that may be necessary for the construction and maintenance of its road, or for the erection of depots, turnouts, workshops, warehouses, or for any other purposes necessary for the conveniences of such companies, in order to transact the business usual for such railroad companies. Purchase land for depots, etc.

Ninth—To take, transport, carry, and convey persons and property on their railroad by the force and power of steam, of animals, or any mechanical power, or by any combination of them, and receive tolls or compensation therefor. Transport persons and property.

Tenth—To erect and maintain all necessary and convenient buildings, stations, depots, and fixtures, and machinery, for the accommodation and use of their passengers, freight, and business, and obtain and hold the lands and other property necessary therefor. Erect stations, etc.

Eleventh—To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor, within the limits prescribed by law. Regulations and tolls.

Twelfth—To regulate the force and speed of their locomotives, cars, trains, or other machinery, used and employed on their road, and to establish, execute, and enforce all needful and proper rules and regulations, fully and completely, for the management of its business transactions, usual and proper for railroad companies. Speed of trains. Rules and regulations.

Subject to
general
Corporation
Act.

** Thirteenth*—To possess and be subject to all of the provisions of chapter one of an Act entitled "An Act concerning corporations," passed April twenty-second, A. D. eighteen hundred and fifty, so far as such provisions are not in conflict or inconsistent with the provisions of this Act.

May change
line of road.

SEC. 18. If, at any time after the location of the line of such railroad, in whole or in part, and the filing of the map thereof, as provided by this Act, it shall appear to the directors of such company that the same may be improved, such directors may, from time to time, alter or change the line in

New map
filed.

any manner they may think proper, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of the land embraced in such new location that may be required for the construction and maintenance of such road on such new line, either by agreement with the owner or owners of such land, or by such proceedings as are authorized under the provisions of this Act, and use and enjoy the same in place of the line for which the new is substituted; but nothing in this Act shall be so construed as to confer any powers on such companies to so change their road as to avoid any point named in their articles of association, except as provided in section seventeen, subdivision seven, of this Act.

Not avoid
points
named in
articles.

Crossing of
roads.

SEC. 19. Whenever the track of such railroad shall cross a railroad or highway, such railroad or highway may be carried under, over, or on a level with the track, as may be most expedient; and in cases where an embankment or cutting shall make a change in the line of such railroad or highway desirable, with a view to a more easy ascent or

Other lands
and
materials.

descent, the said company may take such additional lands and materials, if needed for the construction of such road or highway on such new line, as may be deemed requisite by

Use of land
and compen-
sation.

said directors. Unless the lands and materials so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner in this Act provided, as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made, to become part of such intersecting road or highway in such manner and by such terms as the adjacent parts of such highway may be held for highway purposes.

* See introductory note.

SEC. 20. The right of way is hereby given and granted to all railroad companies that are now organized or may be organized under the provisions of this Act, to locate, construct, and maintain their roads, or any part or parcel thereof, over and through any of the swamp or overflowed lands belonging to this State, or any other public lands which are now or may be the property of this State at the time of constructing said railroad; and the said railroad companies are hereby authorized to survey and mark through the said lands of the State, to be held by them for the track of their respective railroads, one hundred feet in width for the whole length the said roads may be located over the lands of the State; and in no cases where deep excavations or heavy embankments, or other cuttings or structures whatever, or ditches, drains, canals, culverts, or other structure to protect the road-bed and to facilitate the use and enjoyment of the same, is or may be required for the grade or other uses of said roads, then at such places a greater width may be taken by such company, and which is hereby given, not exceeding two hundred feet wide. And the right is hereby further given and granted to said companies to locate, occupy, and hold all necessary sites and grounds for watering-places, depots, or other buildings for the convenient use of the same along the line of said road or roads, so far as the places convenient for the same may fall upon the lands belonging to the State, except within the limits of any incorporated city or town, or within three miles thereof where the same shall be taken, on paying to the State the value of the same; and, *provided*, that no one depot, watering-place, machine or workshop, or other buildings for the convenient use of such roads shall cover over two square acres each, and that said sites or places on the lands of this State shall not be nearer to each other than five miles along the lines of said roads; the right is hereby further given and granted to said companies to take from any of the lands belonging to this State all such materials of earth, wood, stone, or other materials whatever as may be necessary or convenient from time to time for the first construction or equipment of said road or roads, or any part thereof; *provided*, that the grants herein made, as well of the use of the land of this State as for the materials for the construction and equipment of said road or roads, shall cease and determine as respects each particular

Right of way
over public
lands.

Swamp and
public lands.

Width of
same.

Depot
grounds.

In or near
cities and
towns.

Not over two
acres.

Five miles
apart.

Grant of
materials.

Limitation
of.

road which shall not have been begun and completed within the times limited in section thirty-nine of this Act; *and provided further*, that if any road, at any time after its location, shall be discontinued or abandoned by said company or companies, or the location of any part thereof be so changed as not to cover the lands of the State thus previously occupied, then the lands so abandoned or left shall revert to this State; *and provided further*, that when the location of the route of either of said railroads, or sites, or places for depots, watering-places, machine or workshops, or other buildings for the convenient use of the same, shall be selected, the Secretary of the said company shall transmit to the Surveyor-General, and to the Controller of this State, and to the Recorder of the county in which the lands so selected are situated, to each of said officers a correct plat of the location of said railroad, or sites, or places, before such selection shall become operative. And when any such company shall, for its purposes aforesaid, require any of the land belonging to any of the counties, cities, or towns in this State, the county, city, and town officers respectively having charge of such lands, may grant and convey such land to such company for a compensation which shall be agreed upon between them, or may donate and convey the same without any compensation; and if they shall not agree upon the sale and price, the same may be taken by the company as is provided in other cases of taking lands by the provisions of this Act.

SEC. 21. Any county, city, or town in this State shall have and are hereby fully empowered, by and through a two-thirds vote of the Board of Supervisors, the Common Council, or any other officers having a supervisory or other control of such county, city, or towns, respectively, to give, grant, or donate to any railroad company now organized, or that may be hereafter organized under the laws of this State, the use of any of the streets or highways which may be absolutely necessary in order to enable any such company to reach an accessible point for a depot in any such county, city and county, city; or town, or to pass through the same on as direct a route as possible, and accommodate the traveling and commercial interests thereof; *provided, however*, the provisions of this section shall not apply to any street railroad now constructed or hereafter to be constructed in any

Abandonment of road.

Plats of depots, etc., filed.

May condemn lands in cities, etc.

Cities and towns may donate.

Use of streets.

Not to apply to street railroads.

of the incorporated cities of this State; nor shall any railroad company who may avail themselves of the provisions of this section ever use their road for street railroad purposes, or for the purpose of carrying passengers for a consideration, from one point to another in the same city; nor shall any city or town donate any public square, or any land set apart, or public square, to the use of any one company; *and provided further*, that nothing in this section contained shall be deemed to apply to the City of Sacramento, within the corporate limits thereof.

* SEC. 22. Any railroad company organized under the provisions of this Act, or any railroad company now organized under any law of this State, which shall accept the provisions of this Act, as herein provided, is hereby authorized to enter upon any land for the purpose of surveying the line of its proposed railroad, the company being responsible for any damage occasioned by such entry; and such company is also authorized to acquire, purchase, and hold any real estate, or any right, title, or interest therein which may be necessary or proper for the purpose of the construction or maintenance of the track or tracks, water-stations, depots, machine or workshops, turn-tables, or any other building or structure necessary for such railroad; but such company shall not hold such real estate, or any right, title, or interest therein acquired, or used solely or mainly for the construction or maintenance of the track or tracks of said railroad beyond the time of the legal existence of said company, nor after the location of said track or tracks has been changed therefrom, nor after the said company shall have failed or ceased to use the same for the maintenance of such track for the space of five years continuously; but in each of such cases the said real estate, and all the right, title, and interest therein shall revert to the person or persons, and his or their assigns, from whom the same was acquired by said company.

SEC. 23. If it shall become necessary for any of the purposes aforesaid for such company to acquire any real estate, or any right, title, or interest therein which is the property of any infant, idiot, or insane person, the guardian, executor, or administrator, as the case may be, may sell and convey

* In pursuance of section eighteen of the Code of Civil Procedure, sections twenty-two to thirty-nine, inclusive, relative to eminent domain, are virtually repealed by title seven, part three, of said Code.

Approved by Probate Judge. the same to said company; but neither such sale nor conveyance shall be valid, for any purpose, until the same shall have been approved by the Judge of the proper Probate Court; and said Judge is hereby authorized to examine such deeds and conveyances, and if he shall deem the same just and proper, he shall approve the same, and thereupon such conveyances shall have the same force and effect, for the purposes in this section mentioned, as if the same had been executed by persons competent to convey lands in their own names. Such company may acquire any real estate, or any right, title, interest, estate, or claim therein or thereto necessary for the purposes of said company, as hereinbefore provided, by means of the special proceedings prescribed in this Act. (Amendment approved April 27, 1863.)

May condemn real estate, right of way, etc.

Special proceedings to condemn.

Petition, what to contain.

Map to be filed.

Parties in possession.

Who to be defendants.

Hearing of petition.

SEC. 24. Said special proceedings shall be conducted substantially as follows: The said company shall file in the Clerk's office of the County Court, or the District Court, in the county in which said real estate is situated, a petition, verified according to law, stating therein the name of the company, the time when it was incorporated, that it still continues in legal existence, the principal termini of the proposed railroad, the descriptions, by metes and bounds, or by some accurate designation of the tract or tracts of land which said company desire to appropriate for the purposes in the foregoing section mentioned; that said tract or tracts of land are necessary for said purposes; that the line of said railroad has been surveyed, and a map thereof made (a copy of which shall be filed with said petition); that said line has been adopted as the route of said railroad, and the names of the persons in possession of said tract or tracts of land, and of those claiming any right, title, or interest therein, as far as the same can be ascertained by reasonable diligence.

SEC. 25. The persons in occupation of said tract or tracts of land, and those having any right, title, or interest therein, whether named in the petition or not, shall be defendants thereto, and may appear and show cause against the same, and may appear and be heard before the Commissioners herein provided for, and in proceedings subsequent thereto, in the same manner as if they had appeared and answered said petition.

SEC. 26. The said Court, or the Judge thereof, either in term time or vacation, shall, by order, appoint the time for

the hearing of said petition, and such hearing may be had, and all orders in said proceedings may be made by the said Court, or the Judge thereof, either in term time or vacation.

SEC. 27. The said company shall cause all the occupants and owners of said tract or tracts of land, so far as the same can be ascertained by reasonable diligence, who reside in said county, to be personally notified of the pendency of the said petition, at least ten days before the hearing thereof, and if any of said occupants or owners are unknown, or do not reside in said county, and have not been personally notified of the pendency of said petition, said company shall cause a notice, stating the filing of said petition, the object thereof, the tracts of land sought to be appropriated, and the time and the place of the hearing of said petition, to be published for four successive weeks previous to the time of hearing of said petition, in a newspaper published in said county, or if none is published in said county, then in a newspaper published nearest to said county.

Notice to
owners, etc.

Publication
of notice.

SEC. 28. The defendants to said petition may appear and show cause against said petition on or before the time for the hearing thereof, or such other time as the hearing may be continued to, and upon satisfactory proof being made that the defendants have been duly notified of the pendency of said petition, as herein prescribed, and upon the hearing of the allegations and proofs of the said parties, if the said Court or Judge shall be satisfied that the said lands, or any part thereof, are necessary or proper for any of the purposes mentioned in said petition, then such Court or Judge shall appoint three competent and disinterested persons as Commissioners, one of whom shall be selected from among the persons, if any, named for that purpose by said company, and one shall be selected from among the persons, if any, named on the part of any of the defendants, to ascertain and assess the compensation to be paid to the person or persons having or holding any right, title, or interest in or to each of said tracts of land for and in consideration of the appropriation of such land to the use of said company. If any vacancy occur among said Commissioners, by reason of any one or more of them refusing or neglecting to act, or by any other means, one or more Commissioners may be appointed by said Court or Judge to fill such vacancy, upon notice

Defendants
may appear.

Proofs of
notice.

Hearing.

Appoint
Commission-
ers.

How
selected.

Vacancies,
how filled.

being given of such vacancy as the said Court or Judge may direct.

Meetings of
Commission-
ers.

Filing of
report.

Oath of
office.

May issue
subpoenas,
etc.

Duties of
Commission-
ers in assess-
ing damages
for lands
condemned.

Separately
assessed.

Assess
damages.

Fences.

Damages
separately
assessed.

Only a part.

SEC. 29. The said Court or Judge shall appoint the time and place for the first meeting of said Commissioners, and the time for the filing of their report, and may give such further time as may be necessary for that purpose, if they shall not have then completed their duties. The said Commissioners, or a majority of them, shall meet at the time and place as ordered, and before entering on their duties shall be duly sworn to honestly, faithfully, and impartially perform the duties imposed upon them; and any one of them may issue subpoenas for witnesses for either of said parties, and may administer oaths; and said Commissioners may adjourn from place to place, and from time to time, as may be necessary for the proper discharge of their duties.

SEC. 30. The said Commissioners shall proceed to view the tract or tracts of land described in the petition, as ordered by said Court or Judge, and shall ascertain and assess:

First—The value of the land sought to be appropriated, and of each and every estate or interest therein. If the land consists of different tracts, each tract and each estate or interest therein shall be separately assessed.

Second—If the land sought to be appropriated constitutes only a part of a larger tract, they shall next assess the damages which, in their judgment, will accrue to the portion not sought to be taken by reason of its severance from the portion sought to be taken and the construction of the railroad in the manner proposed by said company; and in assessing such damages they shall include the cost of good and sufficient fences along the line of said railroad, and the cost of cattle-guards, where fences may cross the line of said railroad, unless said railroad company shall have offered or agreed, in their petition, to construct the same; in which case the cost of the same shall not be included in said damages; *provided*, if said land be uninclosed, said company shall not be required to construct said fences and cattle-guards until the owners of the land shall have constructed fences abutting upon said railroad. The damages to each tract, and to each estate or interest therein, shall be separately assessed.

Third—If, as aforesaid, the land sought to be appropriated constitutes only a part of a larger tract, they shall next ascertain and assess separately how much, in their judgment,

the portion not sought to be appropriated, and each estate or interest therein, will be benefited, if at all, by the construction of said railroad; and if the benefit shall be equal to the damages assessed as aforesaid, the owner or owners of the land shall be allowed no compensation except the value of the land sought to be appropriated; but if the benefit shall be less than the damages, the former shall be deducted from the latter, and the remainder shall be the only damages allowed over and above the value of the land taken.

Benefit
equal to
damages.

On or before the time or times appointed by said Court or Judge, the Commissioners shall file their report in the office of the Clerk of said Court, which shall be signed by them, and shall contain a full account of their proceedings, including the testimony taken by them and their rulings upon the admission or exclusion of testimony, and the exceptions, if any, taken to such rulings by any of the parties to the proceeding. The Commissioners may include all the tracts of land in one report, or they may make several reports, including one or more tracts, at their option, provided the Court or Judge shall have made no order in the premises. In case there shall be adverse or conflicting claims to the land or any portion thereof, the Commissioners shall not undertake to determine the same; but the parties thus asserting such claims shall present the same by petition to the Court or Judge after the report of the Commissioners shall have been filed, and the Court or Judge shall proceed to hear and determine the same. In such cases the company may pay the sum awarded by the Commissioners to the Clerk of the Court, to abide the order of the Court or Judge upon the final determination of such conflicting claims, and shall not be liable for any costs which may be caused by such litigation. (Amendment approved March 30, 1868.)

Report.

Adverse
claims.

Hearing by
Court.

Costs.

SEC. 31. The said company, or any of said defendants, if dissatisfied with the report, may, within twenty days after the time for filing of said report, and after ten days' notice to the parties interested, move to set aside the report and to have a new trial as to any tract of land; and upon good cause shown therefor, the said Court or Judge shall set aside the report as to such tract of land, and may recommit the matter to the same, or to other Commissioners, who shall be ordered to proceed in like manner as those first appointed;

Reports set
aside.

New Com-
missioners.

but such matter shall not be more than twice recommitted to Commissioners.

Confirmation of reports.

SEC. 32. Upon the expiration of twenty days after the filing of said report or reports, or at such further time as may be appointed therefor, if the motion and notice shall not have been made and given, as aforesaid, and if the proceedings of said Commissioners appear to have been correctly and properly done, the said Court or Judge shall confirm each of said reports, and certify the same thereon.

Reports recorded.

SEC. 33. Each of said reports and the certificates thereon, upon the compensation therein named being paid, shall be recorded in the Recorder's office of said county by said company. The said Court or Judge may make all such orders as may be necessary or proper in the special proceedings provided for in this Act, and shall cause the pleadings and proceedings to be amended whenever justice shall require it to be done, and shall direct the manner of the service of all orders and notices not herein specially provided for. Costs in such special proceedings shall be taxed by the Clerk at the rates prescribed in the fee bill for said county in civil actions, and shall be paid by said company, except in case where a defendant shall move for a new trial, and the compensation assessed by the Commissioners shall not be increased more than ten per cent. upon the previous assessment, in which case such defendant shall pay the costs.

Costs, how taxed.

Defective title.

SEC. 34. If the title attempted to be acquired by virtue of the provisions of this Act shall be found to be defective from any cause, such company may again institute proceedings to acquire the same as in this Act prescribed; and at any stage of such new proceedings, or of any proceedings under this Act, the Court or Judge in Chambers may, by a rule or order in that behalf made, authorize such company, if already in possession, to continue in the use and possession; and if not in possession, to take possession of and use such premises during the pendency and until the final conclusion of such proceedings, and may stay all actions and proceedings against such company on account thereof; *provided*, such company shall pay a sufficient sum into Court, or give security, to be approved by such Court or Judge, to pay the compensation in that behalf when ascertained. (Amendment approved April 27, 1863.)

Take possession, and continue in same by order of Court.

To pay money into Court, or give security.

Title, when to vest in company.

SEC. 35. Upon the report of the Commissioners being

filed for record, as above provided for, and upon the payment or tender of the compensation and costs, as prescribed in this Act, the real estate, or the right, title, or interest therein described in such report, shall be and become the property of said company, for the purposes of its incorporation, and shall be deemed to be acquired for, and appropriated to, public use.

SEC. 36. Such company shall, within thirty days after the final confirmation of the report as aforesaid, pay or tender the sum of money ascertained and assessed by said Commissioners, as and for the compensation of each tract of land described in said report, of which the compensation was ordered by said Court or Judge to be ascertained and assessed as aforesaid; and said payment or tender may be made to the person or persons owning said tract of land, or having or holding any right, title, or interest therein, according to the amount or extent of the right, title, or interest owned or held therein by such person or persons, or said payment may be made to the said Clerk for said persons, and the same shall be deemed and taken as a payment to such person or persons, and shall be as effectual for all purposes whatsoever as if the said sum of money had been personally paid to each and all of the persons entitled thereto.

Company to
pay in thirty
days.

To the
owner.

Or to Clerk.

SEC. 37. The said Court or Judge shall, at the time of the payment of the said sum of money to the said Clerk, or at such other time or times as may be ordered, direct and order the same to be paid over to the person or persons who shall upon satisfactory proof appear to be entitled thereto.

Court to
order
payment.

SEC. 38. In all the proceedings in relation to the sale or appropriation of real estate, and ascertaining and receiving the compensation therefor, for railroad purposes, as prescribed in this Act, the term "person" shall be deemed to include municipal or other corporations.

Definition of
"person."

SEC. 39. The minutes of the proceedings had before such Judge shall be entered by said Clerk in the same manner and with the same force and effect as if the proceedings were had before said Court in term time.

Duties of
Clerk.

SEC. 40. It shall be lawful for two or more railroad companies to amalgamate and consolidate their capital stock, debts, property, assets, and franchises in such manner as may be agreed upon by the Board of Directors of such companies so desiring to amalgamate and consolidate their inter-

Consolida-
tion of
companies.

Consent of three-fourths of stock.	ests; but no such amalgamation or consolidation shall take place without the written consent of three-fourths of the value of all stockholders in interest of each company, and no such amalgamation or consolidation shall in any way relieve such companies or the stockholders thereof from any
Publication of notice.	and all just liabilities; and in case of such amalgamation or consolidation, due notice of the same shall be given, by advertising, for one month, in at least one newspaper in each county, if there shall be one published therein, into, or through which such roads shall run, and also for the same length of time in one paper published in Sacramento, and
New articles.	in two papers published in San Francisco; and when the consolidation and amalgamation is completed, a copy of the new articles of association shall be filed in the office of the
Fences.	Secretary of State. It shall be the duty of the railroad company to make and maintain a good and sufficient fence on either or both sides of their property; and in case any company do not make and maintain such fence, if their engine or cars shall kill, maim, or destroy any cattle, or other domestic animals, when they stray upon their line of road where it passes through or alongside of the property of the owners thereof, they shall pay to the owner or owners of such cattle, or other domestic animals, a fair market price for the same, unless the owner or owners of the animal or animals so killed, maimed, or destroyed shall be negligent, or at fault.
When company pay owners of land.	In any case where the railroad company have heretofore or may hereafter pay to the owner or owners of the land through which or alongside of which their road is or may be located, an agreed price for making and maintaining such fence, or whenever the cost of such fence has been or may be included in the award of damages allowed and paid for the right of way for such railroad, such company shall be entirely relieved and exonerated from all claims or awards of damages arising out of the killing or maiming any animals as aforesaid, in favor of all persons, or their successors or assigns, who shall thus fail to construct and maintain such fence. And the owner or owners of such animals shall become responsible to the railroad company for any damage or loss which may accrue to such company from such animals being upon their railroad track by reason of the non-construction of such fence by said owner, unless it can be proven
Owners liable for damages.	

that such loss or damage accrued by reason of the negligence of such company, its officers, agents, or employés.

SEC. 41. A bell of at least twenty pounds weight shall be placed on each locomotive engine, and be rung at a distance of at least eighty rods from the place where the railroad shall cross any street, road, or highway, and be kept ringing until it shall have crossed such street, road, or highway, under a penalty of one hundred dollars for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer and the other half to the State; and said corporation shall also be liable for all damage which shall be sustained by any person by reason of such neglect.

Locomotive bell.

To be rung.

Penalty.

SEC. 42. A check shall be affixed to every package or parcel of baggage when taken for transportation by the agent or employé of such railroad company, and a duplicate thereof given to the passenger, or person delivering the same in his behalf; and if such check be refused on demand, the railroad company shall pay to such passenger the sum of twenty dollars, to be recovered in an action for debt; and further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his or her said fare, the same shall be returned by the conductor in charge of the train, and on producing said check, if his or her baggage shall not be delivered to him or to her by the agent or employé of said railroad company, he or she may, himself or herself, be a witness in any suit brought by him or her to recover the value thereof, to prove the contents and value of said baggage.

Baggage checks.

Penalty.

Passenger witness.

SEC. 43. Every railroad company in this State shall, within a reasonable time after their road shall be finally located, cause to be made a map and profile thereof, and of the land taken and obtained for the use thereof, and the boundaries of the several counties through which said road may run, and file the same in the office of the Secretary of State; and also, like maps of the parts thereof located in different counties, and file the same in the office of the Clerk of the county in which said parts of said road shall be, there to remain as of record forever. The said maps and profiles shall be certified by the Chief Engineer, the acting President, and Secretary of such company, and copies of the same, so certified and filed as aforesaid, shall be kept in the office of

Map and profile to be filed.

Certified by officers of said company.

the Secretary of the company, subject to examination by all parties interested.

Annual
report of
Board to
Secretary of
State.

*SEC. 44. Every such railroad corporation shall make an annual report to the Secretary of State of the operations of the year ending on the thirty-first day of December, which report shall be verified by the oaths of the President, or acting Superintendent of operations, the Secretary and Treasurer of such corporation, and filed in the office of the Secretary of State by the twentieth day of February, in each year, and shall state:

What to
contain.

First—The capital stock, and the amount actually paid in.

Second—The amount expended for the purchase of lands, for the construction of the road, for buildings, and for engines, and cars, respectively.

Third—The amount and nature of its indebtedness, and the amount due the corporation.

Fourth—The amount received from the transportation of passengers, of property, of mails, express matter, and from other sources.

Fifth—The amount of freight, specifying the quantity in tons.

Sixth—The amount paid for repairs of engines, cars, buildings, and other expenses, in gross, showing the current expenses of running such road.

Seventh—The number and amount of dividends, and when paid.

Eighth—The number of engine houses and shops, of engines and cars, and their character.

Running
cars, etc.

Public
notice of.

SEC. 45. Every such company shall start and run their cars for the transportation of persons and property at such regular times as they shall fix by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall within a reasonable time previous thereto offer, or to be offered, for transportation at the place of starting, and the junction of other railroads, and at siding and stopping places established for receiving and discharging way-passengers and freight, and shall take, transport, and discharge such passengers and property at, from, and to such places, on the due payment of tolls, freight, or fare therefor.

* Section forty-four is superseded by section seven of chapter one of an Act relative to the Commissioner of Transportation, approved April 1, 1878.

SEC. 46. In case of refusal by such company, or their agents, so to take and transport any passengers or property, or to deliver the same at the regular appointed place, such company shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit.

*SEC. 47. It shall be unlawful to place baggage, freight, merchandise, or lumber cars in the rear of passenger cars, and for any violation of the provisions of this section the company shall be liable, upon complaint, to the party complaining, in the sum of five hundred dollars, and the person, agent, director, or officer so causing the cars to be placed, shall be guilty of a misdemeanor, and upon conviction of such offense shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the County Jail for three months, or both such fine and imprisonment, and should any accident happen to life or limb, by such unlawful arrangement of cars, the person, agent, director, or officer who so directed, or suffered such arrangement, shall be guilty of felony, and upon conviction thereof shall be imprisoned in the Penitentiary for any term not less than three and not more than ten years.

SEC. 48. In case any passenger on any railroad shall be injured on the platform of a car, or on any baggage, wood, gravel, or freight cars, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, or in violation of verbal instructions given by any officer of the train, such company shall not be liable for the injury; *provided*, said company at the time furnished room inside its passenger cars sufficient for the accommodation of its passengers.

SEC. 49. If any passenger shall refuse to prepay his fare or toll, upon demand, it shall be lawful for the conductor of the train, and the employes of the company, to put him out of the cars at any stopping place the conductor shall elect.

SEC. 50. Every conductor, baggage-master, engineer, brakeman, or other employe of any such railroad company, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap, or in some conspicuous place on the breast of his coat, a badge, which shall indicate his office or station, and the initial letters of the name of the

* Compare section forty-seven with section one, chapter three of an Act relative to the Commissioner of Transportation, approved April 1, 1878.

company by which he is employed. No collector or conductor, without such badge, shall demand or be entitled to receive from any passenger any fare, toll, or ticket, or exercise any of the powers of his office or station; and no other of said officers or employes, without such badge, shall have any authority to meddle or interfere with any passenger or property.

Rates of charges.

*SEC. 51. It shall be unlawful for any such railroad company to charge more than ten cents per mile for each passenger, and fifteen cents per mile for each ton of freight transported on its road; and for every transgression of such limitation the company shall be liable to the party suffering thereby treble the entire amount of fare or freight so charged to such party; *provided*, that in no case shall the company be required to receive less than twenty-five cents for any one lot of freight for any distance.

Penalty for intoxication.

†SEC. 52. If any person shall, while in charge of a locomotive engine, running upon any railroad for such company, or while acting as a conductor of a car or train of cars on any such railroad, be intoxicated, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one thousand dollars, or imprisoned in the County Jail not exceeding six months.

Injury to works of company.

SEC. 53. If any person or persons shall willfully do or cause to be done any act or acts whatever, whereby any building, construction, or work of any kind, of any such company, or any engine, machine, or structure, or any matter or thing appertaining to the same, or to the track of said road, or any property or thing belonging to or appertaining to such railroad, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, such person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to said company treble the amount of damages sustained by means of such offense, besides a fine not exceeding five hundred dollars, or imprisonment in the County Jail not exceeding six months, or both such fine and imprisonment, in the discretion of the Court; and if, by reason of any unlawful acts, any accident should happen to life or limb of any person riding or being in the cars of such railroad, then

Penalty.

* Compare section fifty-one with section six of chapter one of an Act relative to the Commissioner of Transportation, approved April 1, 1878.

† Compare section fifty-two with section six, chapter three, of an Act relative to the Commissioner of Transportation, approved April 1, 1878.

such person or persons shall be guilty of felony, and upon conviction thereof shall be imprisoned in the Penitentiary for any term not less than three nor more than ten years. It shall be unlawful for any person or persons, engaged in mining or other pursuits, to tunnel, drift, or in any manner excavate under or upon any land belonging to any railroad company, without the consent of such company; and any person so offending shall be liable to the fine and punishment hereinbefore mentioned, whether injury results to any person by reason thereof or not.

SEC. 54. Such railroad company shall, within two years Forfeiture. after filing its original articles of association, begin the construction of its road, and shall every year thereafter complete and put in full operation at least five miles of its road, until the same shall be fully completed; and upon its failure so to do, for the period of one year, its right to extend its road beyond the point then completed shall be forfeited. (Amendment approved April 1, 1870.)

SEC. 55. If any certificate or report made, or public notice False notice or report. given by the officers of such company, in pursuance of the provisions of this Act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof, and shall likewise be guilty of a misdemeanor, and Penalty. shall be fined in any sum not exceeding one thousand dollars, in any Court having jurisdiction, and disqualified from holding any office of trust or profit in such company.

SEC. 56. If the directors of such company shall declare Dividends made when insolvent. and pay any dividend when the company is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the Directors liable. debts of the company then existing, and for all that shall thereafter be contracted, so long as they shall respectively remain in office; *provided*, that if any of the directors shall Except when. be absent at the time of making the dividend, or shall object thereto, and shall within thirty days thereafter, or after their return, if absent, file a certificate of their absence or objection with the Secretary of the company, and with the Clerk of the county, or District Court of the county, in which the principal office of said company is located, they shall be

Old companies may accept new law.

exempt from said liability. All the existing railroad companies in this State may acquire, and may be possessed of all the powers, rights, and benefits conferred by this Act, fully and completely, by filing a written acceptance thereof in the office of the Secretary of State, signed by all the directors of such company, and attested by the President and Secretary thereof, with the seal of such company affixed thereto; and the acceptance of any part of this Act shall be deemed and taken to be an acceptance of the whole Act, and a surrender of the Act or Acts under which such company may be organized; thereupon such company shall possess all of such powers, rights, and benefits so accepted, and be subject to all of the obligations and restrictions herein specified as fully and completely as they would have had and been if organized under this Act.

Rails to be used.

SEC. 57. All railroads, built by companies incorporated under the provisions of this Act, shall be constructed of the best quality of iron rail, known as T rail, or H rail, or other pattern of equal utility, until otherwise provided by law; *provided*, the provisions of this section shall not apply to tracks laid down in the streets of incorporated cities or towns, or to railroad tracks used exclusively for carrying freight, or for mining purposes. (Amendment approved May 6, 1862.)

Proviso.

Street railroads.

SEC. 58. Corporations may be formed under this Act for the purpose of constructing, running, operating, and maintaining a street railroad, or railroads, being wholly within the limits of a city and county, city or town, under a franchise or franchises granted to such corporation, or to their assignors, by an Act or Acts of the Legislature of California. Such corporations shall be subject only to the provisions of sections one to sixteen of this Act, both inclusive; of subdivisions two, three, four, five, ten, and thirteen of section seventeen, and to the provisions of sections fifty-five, fifty-nine, and sixty, and shall have all the rights and powers in such sections and subdivisions granted, and no others of those in this Act conferred; but notwithstanding anything in this Act to the contrary provided, such corporations shall also have all the rights, powers, and privileges conferred by the Act or Acts granting the franchise or franchises in this section before mentioned.

Repealing clauses.

SEC. 59. An Act entitled "An Act to provide for the incor-

poration of railroad companies," approved April twenty-second, eighteen hundred and fifty-three, and all Acts supplementary to or amendatory thereof, are hereby repealed; *provided, however*, that this section shall not take effect until the expiration of sixty days from the passage of this Act, nor shall the same affect any rights, powers, franchises, or privileges obtained or now enjoyed by any person or persons, or company, under any law of this State heretofore in force.

SEC. 60. This Act shall take effect and be in force from and after its passage. To take effect.

CHAPTER CCCLXXXI.—*An Act to amend an Act entitled an Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto, approved May twentieth, eighteen hundred and sixty-one.*

[Approved May 6, 1862.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

[Section 1 contains the amendment to Sec. 57 of the above Act of 1861, therein inserted.]

SECTION 2. Whenever the track of one railroad shall intersect or cross the track of another railroad, whether the same be street railroad wholly within the limits of a city or town, or other railroad, the rails of either or each road shall be so cut and otherwise adjusted as to permit the passage of the cars on each road with as little obstruction as possible; and, in case the persons or corporations owning the said railroad cannot agree as to the compensation to be made for the said cutting and adjusting of their rails, the same shall be ascertained by commission, as hereinbefore provided in respect to the taking of lands. Crossings and intersections.
Adjustment.

SEC. 3. No railroad company heretofore organized, or that may hereafter be organized, under the Act of which this Act is amendatory and to which it is supplemental, shall have the right to use any of the streets, or highways, or any of the lands, or waters, within any incorporated city, or any city and county, of this State, unless the right to use the same be granted to said company by a vote of two-thirds of all the Not to use streets, etc., except by two-thirds vote of Board of Supervisors.

Proviso.

members of the Board of Supervisors, the Common Council, or other similar local authority of said city and county; *provided*, that the provisions of this section shall in no wise affect any special grant heretofore made by the Legislature, of the right to construct and maintain street passenger railroads in any city, or city and county, of this State; *and*, *provided*, that nothing in this Act shall be so construed as to exempt any railroad company heretofore organized, or that may hereafter be organized, under the Act of which this Act is amendatory and to which it is supplemental, from paying to the State the value of any lands or waters within the limits of any city, or city and county, or within three miles thereof, belonging to the State, and used by such company. The restrictions provided in this section shall be in addition to the restrictions and requirements already provided by law.

To take effect.

SEC. 4. This Act shall take effect from and after its passage.

EXTRACTS FROM THE POLITICAL CODE.

PRELIMINARY PROVISIONS.

SECTION 2. This Code takes effect at twelve o'clock, noon, of the first day of January, eighteen hundred and seventy-three. When Code takes effect.

SEC. 3. No part of it is retroactive, unless expressly so declared. Not retro-active.

SEC. 4. The rule of the common law that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice. Construction of the Political Code.

SEC. 5. The provisions of this Code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments. Provisions similar to existing laws, how construed.

SEC. 17. Words used in this Code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration; every mode of oral statement under oath or affirmation is embraced by the term "testify," and every written one in the term "depose;" signature or subscription includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness. The following words, also, have in the Code the signification attached to them in this section, unless otherwise apparent in the context: Words, what they include.

1. The word "property" includes both real and personal property;

[2.] The words "real property" are co-extensive with lands, tenements, and hereditaments;

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;

7. The word "vessel," when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place.

Statutes,
laws, or rules
inconsistent
with Code
repealed.

SEC. 18. No statute, law, or rule is continued in force because it is consistent with the provisions of this Code on the same subject, but in all cases provided for by this Code all statutes, laws, and rules heretofore in force in this State, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed and abrogated. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued, or any action or proceeding already taken, except as in this Code provided; nor does it affect any private statute not expressly repealed.

PART I.

TITLE I.

SOVEREIGNTY OF THE STATE.

CHAPTER II.

TERRITORIAL JURISDICTION OF THE STATE.

Territorial
jurisdiction,
limitations
on.

SECTION 33. The sovereignty and jurisdiction of this State extends to all places within its boundaries as established by the Constitution, but the extent of such jurisdiction over places that have been or may be ceded to, purchased or condemned by the United States, is qualified by the terms of such cession or the laws under which such purchase or condemnation has been or may be made.

CHAPTER IV.

GENERAL RIGHTS OF THE STATE OVER PROPERTY.

SECTION 40. The original and ultimate right to all property, real and personal, within the limits of this State, is in the people thereof.

Original
and ultimate
title.

SEC. 42. If any person, under any pretense of any claim inconsistent with the sovereignty and jurisdiction of the State, intrudes upon any of the waste or ungranted lands of the State, the District Attorney of the county must immediately report the same to the Governor, who must thereupon, by a written order, direct the Sheriff of the county to remove the intruder; and if resistance to the execution of the order is made or threatened, the Sheriff may call to his aid the power of the county, as in cases of resistance to the writs of the people.

Intruders on
public lands
of State.

SEC. 43. The State may acquire property by taxation in the modes authorized by law.

Acquisition
by taxation
and
assessment.

SEC. 44. It may acquire, or authorize others to acquire, title to property, real or personal, for public use, in the cases and in the mode provided in title seven, part three, of the Code of Civil Procedure.

By right of
eminent
domain.

 TITLE III.

SECTION 54. Every person while within this State is subject to its jurisdiction and entitled to its protection.

All persons
within the
State subject
to its juris-
diction.

PART III.

TITLE I. CHAPTER II.

ARTICLE XI.

OPERATION OF STATUTES.

When statutes take effect. SECTION 323. Every statute, unless a different time is prescribed therein, takes effect on the sixtieth day after its passage.

Effect of amendment. SEC. 325. Where a section or part of a statute is amended, it is not to be considered as having been repealed and re-enacted in the amended form; but the portions which are not altered are to be considered as having been the law from the time when they were enacted, and the new provisions are to be considered as having been enacted at the time of the amendment.

Construction of statutes. SEC. 326. The general rules for the construction of statutes are contained in the preliminary provisions of the different Codes.

Repeal of statutes. SEC. 327. Any statute may be repealed at any time, except when it is otherwise provided therein. Persons acting under any statute are deemed to have acted in contemplation of this power of repeal.

Act repealed not revived by repeal of repealing Act. SEC. 328. No Act or part of an Act, repealed by another Act of the Legislature, is revived by the repeal of the repealing Act without express words reviving such repealed Act or part of an Act.

Repeal of laws creating criminal offenses, effect of. SEC. 329. The repeal of any law creating a criminal offense does not constitute a bar to the indictment and punishment of an act already committed in violation of the law so repealed, unless the intention to bar such indictment and punishment is expressly declared in the repealing Act.

Amendatory Act, when void. SEC. 330. An Act amending a section of an Act repealed is void.

TITLE VI. CHAPTER I.

PUBLIC WATERS.

ARTICLE I.

GENERAL PROVISIONS RESPECTING PUBLIC WATERS AND
OBSTRUCTIONS THEREIN.

SECTION 2348. Navigable waters and all streams of sufficient capacity to transport the products of the country are public ways for the purposes of navigation and of such transportation.

What waters are public ways.

ARTICLE II.

NAVIGATION.

SECTION 2360. When steamers meet each must turn to the right, so as to pass without interference.

Steamers meeting.

SEC. 2361. When a passenger is to be landed from a steamer by means of a small boat, he must not be suffered to get into it until it is completely afloat and wholly disengaged from the steamer, except by the painter.

Landing and receiving passengers by small boat.

SEC. 2362. No line used for the purpose of landing or receiving passengers must be attached in any way to the machinery of any steamer, nor must the small boat used for such purpose be hauled in by means of such machinery.

Lines used for landing not to be drawn by machinery.

SEC. 2363. During the landing and receiving of a passenger, and the going and returning of the small boat for the purpose, the engine must be stopped, and must not be put in motion, except to give sufficient force to keep the steamer in a proper direction and safe position.

The engine to be stopped.

SEC. 2364. In every small boat there must be kept a good and suitable pair of oars; and in the night time a signal, by means of a horn or trumpet, must be given to the steamer from the small boat, when, having landed or received its passengers, it is ready to leave the shore.

Boats, oars, and signals.

SEC. 2365. A steamer going in the same direction with another steamer ahead of it must not approach or pass the other within the distance of ten yards; and the steamer ahead must not be so navigated as unnecessarily to bring it within ten yards of the steamer following.

Steamers overtaking.

SEC. 2366. When any steamer is running in the night

Steamers to carry signals at night.

time her master must cause her to carry two conspicuous lights, one exposed near her bow and the other near her stern; the latter must be at least twenty feet above her deck.

Penalties,
what
amount.

SEC. 2367. Every master or other person in charge who violates any of the provisions of the preceding seven sections incurs a penalty of two hundred and fifty dollars for each offense.

Vessels
at anchor
to show
lights.

SEC. 2368. When any vessel is at anchor in the night time in any of the harbors or ports within the jurisdiction of this State, the master or other person at the time in the charge of the vessel must cause a conspicuous light shown in her rigging at least twenty feet above her deck, and another light from her taffrail, under penalty of fifty dollars for every neglect.

No recovery
for collision
in case of
neglect.

SEC. 2369. Neither the master or owner of any vessel can recover damages for injuries to the same or to himself by a collision growing out of a non-compliance upon its part with the provisions of the preceding six sections.

Vessels
to carry
what boats.

SEC. 2371. Every vessel propelled by steam, navigating any waters of this State and carrying passengers, must be provided with boats as follows:

1. If of five hundred tons measurement, one first-class life-boat; one row boat, twenty-five feet long by seven wide, capable of carrying fifty persons each; and at least one other good row boat;

2. If of two hundred and fifty and less than five hundred tons measurement, at least two ordinary row boats;

3. If of less than two hundred and fifty tons burden, at least one small row boat.

All which boats must be attached in such manner that they can be launched at any time for immediate use.

Penalty,
what
amount.

SEC. 2372. The master and owners, and each of them, of any vessel not provided with boats as required in the preceding section, are subject to a penalty of not exceeding two hundred and fifty dollars.

Racing,
penalty for.

SEC. 2373. If the master or other person in charge of a steamer navigating any of the waters of this State and used for the conveyance of passengers, or if the engineer or other person in charge of the boiler or other apparatus for the generation of steam does, for the purpose of increasing speed or excelling any other vessel in speed, suffer to be created an undue or an unsafe quantity of steam, he is subject to a penalty of five hundred dollars.

SEC. 2374. All high-pressure steamboats navigating the Sacramento and San Joaquin Rivers, or any of their tributaries above the mouth of the San Joaquin River or the City of Sacramento, must have securely attached to their chimneys metal bonnets or spark-catchers.

Steamboats
to wear
spark
catchers.

SEC. 2375. All such bonnets or spark-catchers must be constructed under the direction and supervision of the United States Inspectors of Steamboats for the District of San Francisco.

Inspectors
to supervise
and direct
spark
catchers.

SEC. 2376. For each bonnet or spark-catcher worn by any steamboat inspected or constructed under the direction of and certified to by the Inspector, he may receive from the owner thereof ten dollars as a compensation for his services for such direction, supervision, or inspection and certificate.

Compensation
of
Inspectors.

SEC. 2377. Every owner or master who navigates a steamboat without bonnets or spark-catchers inspected and attached, as required by the preceding three sections, is subject to a penalty of twenty dollars for each day he navigates his boat without the same. The owner of such boat is further liable for all damage done by reason of such neglect.

Neglect of
duty, and
penalty
therefor.

SEC. 2378. The owners of every steamboat are responsible for the good conduct of the master or other person in charge employed by them, and they are jointly and severally liable for any penalty incurred by the master, engineer, or other person in charge, which cannot be collected from him by due course of law, as if they were his sureties.

Owner liable
for master's
or engineer's
penalties.

SEC. 2379. The penalties given by this article may be recovered by the District Attorney of any county bordering on the water where the offense was committed or the penalty incurred, to whom notice is first given, and when recovered are to be equally divided between the Common School and Indigent Sick Fund of the county whose District Attorney recovers the same. Any judgment recovered hereunder is a lien on the vessel against whose owners or master it is recovered.

Penalties,
how
recovered.

ARTICLE V.

PILOTS AND PILOT COMMISSIONERS.

SECTION 2429. No person must be appointed a pilot unless he is an American citizen, over the age of twenty-one years,

Qualifica-
tions of
pilots.

with a practical knowledge of the management of sailing vessels and steamboats, and of the tides, soundings, bearings, and distances of the several shoals, bars, rocks, points of land, light-houses, and fog signals of the ports and harbors for which he is appointed, of good moral character, and temperate, with the skill and ability necessary to discharge the duties of pilot.

Commissions
and license.

SEC. 2430. Pilots appointed by Commissioners must be carefully examined as to their qualifications, and if found to be qualified and worthy, must receive licenses as pilots for the term of twelve months, which license shall be thereafter annually renewed, until the Commissioners have good cause to withhold such renewal; and whenever the Commissioners deem they have such cause, or intend for any reason to withhold such renewal, the Secretary of the Board of Commissioners shall serve notice, in writing, on such pilot, specifying the causes, at least ten days before the expiration of his license; and such pilot shall thereupon be entitled to a full hearing before said Board. (Amendment, approved March 29, 1879; Amendments, 1877-8, 46; took effect immediately).

Pilots to take
official oath
and
give bonds.

SEC. 2431. Every pilot must execute an official bond in the sum of five thousand dollars, to be approved by the officer or Board appointing him. The bonds of pilots appointed by Commissioners must be filed with such Commissioners.

ARTICLE IX.

SAN FRANCISCO HARBOR AND STATE HARBOR COMMISSIONERS.

Appoint-
ment of
State
Harbor Com-
missioners.

SECTION 2520. As soon as may be after the passage of this Act, the Governor, by and with the consent of the Senate, shall appoint three State Harbor Commissioners, who shall hold office, one for two years, one for three years, and one for four years, from the date of their respective commissions. The Governor shall, in like manner, at the expiration of their respective terms, appoint and commission their successors, for a full term of four years, excepting in case of a vacancy occurring in the Board by resignation, or otherwise, to fill which he shall appoint a Commissioner for the unexpired portion of the term. (New section, approved February 28, 1876; Amendments, 1875-6, 32; took effect from passage).

SEC. 2522. The Commissioners may appoint a Chief Engineer, whose duty it shall be to superintend the construction of all embankments and sea-walls, the dredging of slips and docks, the building of wharves, piers, quays, and landings, thoroughfares, and other necessary structures, upon the premises and under the control of said Commissioners, by virtue of this article. They may also, in their discretion, employ assistant engineers and draughtsmen, who shall be under the control and subject to the directions of the Chief Engineer, and pay a reasonable compensation for such services. They may appoint an attorney at law, who shall attend to the prosecution and defense of all suits and other matters requiring his professional services, and give counsel and advice when required by the Board. They shall appoint as Chief Wharfinger a competent man, who must, before entering upon the duties of his office, file in the office of the Board a bond, with two or more sureties, in a sum sufficient to cover any amount of money that shall come into his hands, conditioned for the faithful performance of his duties as such Chief Wharfinger, which bond, if satisfactory, shall be approved by the Board by writing indorsed thereon. Such Chief Wharfinger shall, under the direction of the Commissioners, furnish to all ship-masters, consignees, and pilots of all ships and other water-craft, a printed copy of the harbor regulations of the Harbor of San Francisco, which shall contain the rates of dockage, wharfage, and tolls, and such other matters as said Commissioners shall deem proper to furnish to ship-masters, consignees, and pilots, to give them a correct knowledge of the regulations of said harbor; such printed copies of harbor regulations to be furnished to said Chief Wharfinger by said Commissioners. The Chief Wharfinger shall also, subject to the directions of the Board, superintend and direct the removal of all incumbrances and obstructions from the docks, slips, wharves, landings, and thoroughfares, and shall have, subject to the directions of the Commissioners as aforesaid, authority to station, berth, and regulate the position of all classes of water-craft navigating said harbor, and to remove, from time to time, and from place to place, such water-craft as the wants of commerce and good order may require; *provided, however*, that said Chief Wharfinger shall have no control over such portions of the water front of said city and county as are held

Employés
and their
duties.

Employees
and their
duties.

by grantees or lessees, or their assigns, under valid leases. Said Commissioners may also appoint an Assistant Chief Wharfinger, who shall perform such duties pertaining to his office as shall be required of him by said Commissioners, and by said Chief Wharfinger. Said Assistant Chief Wharfinger must, before entering upon the duties of his office, file in the office of the Board a bond, with two or more sureties, in a sum sufficient to cover all moneys that may come into his hands, conditioned for the faithful performance of his duties as Assistant Chief Wharfinger, which bond shall be approved by the Board by writing indorsed thereon. Said Commissioners shall also appoint a sufficient number of persons Wharfingers to collect the revenue arising from dockage, wharfage, cranage, rents, and tolls, by authority of this article, and may also appoint a sufficient number of persons Toll Collectors to collect the tolls authorized to be collected by virtue of this article; each of which Wharfingers and Toll Collectors must, before entering upon the duties of their respective offices, file in the office of the Board a bond, with two or more sureties, in a sum sufficient to cover any moneys that may come into their hands, conditioned for the faithful performance of their duties as such Wharfingers and Toll Collectors, which bonds shall be approved by said Commissioners by writing indorsed thereon. Every Wharfinger and Toll Collector appointed by authority of this article must make and subscribe to an official oath, which oath must be attached to and filed with his bond. The Secretary of the Board is hereby authorized to administer to each Wharfinger and Toll Collector the oaths required by this article to be made by such Wharfingers and Toll Collectors. Each Wharfinger and Toll Collector shall keep, in suitable books to be furnished by the Commissioners, an account of all moneys by him collected, which books shall be open to the inspection of the public at all reasonable times, and such Wharfingers and Toll Collectors shall pay to the Commissioners all the moneys collected by them, at least once in each week, and as much oftener as the Commissioners shall require. The Wharfingers appointed by authority of this article shall have authority, respectively, and they are hereby authorized, to require the captain, consignees, agents, or owners of any water-craft, or the owners, agents, managers, or conductors of any railroad car, or train of cars, or the consignees of any

goods, wares, or merchandise, or animals to be landed, loaded, or unloaded upon the premises described in this article, on or before the landing, loading, or unloading thereof, to furnish to any such Wharfingers, when required to do so, the number of tons, or number of hundred, or number of feet, or number of cords, or number of animals, any such water-craft, or car, or train of cars, contains; and it shall be the duty of every captain, consignee, agent, or owner of any water-craft, or the owners, agents, managers, or conductors of every railroad car, or train of cars, the consignee of any goods, wares, merchandise, or animals, upon any railroad car, or train of cars, which goods, wares, merchandise, or animals are to be landed, loaded, or unloaded within or upon the premises described in this article, to furnish to such Wharfingers a correct account of the number of tons, or the number of hundred, or number of feet of goods, wares or merchandise, or number of animals, when required to do so by any Wharfinger; and every captain, consignee, agent, or owner of any water-craft, or any owner, agent, manager, or conductor of any railroad car, or train of cars, or any consignee of any goods, wares, merchandise, or animals, upon any railroad car, or train of railroad cars, who shall neglect or refuse to furnish the information required to be given to the Wharfingers by this section, or who shall, designedly, give false information, shall be guilty of a misdemeanor, and, upon conviction thereof before any Court of competent jurisdiction, shall be fined not less than twenty nor more than one hundred dollars, or by imprisonment in the jail of the City and County of San Francisco not less than ten nor more than fifty days, or by both such fine and imprisonment. (Amendment, approved February 28, 1876; Amendments 1875-6, 32; took effect from passage.)

SEC. 2524. The Commissioners shall have possession and control of that portion of the Bay of San Francisco, together with the improvements, rights, privileges, easements, and appurtenances connected therewith, or in anywise appertaining thereto, for the purposes in this article provided (excepting such parcels thereof as are held by the lessees, or their assigns, of valid leases, which parcels so held it is hereby made the duty of the Commissioners to take possession of, together with the improvements thereon, as soon as said leases terminate, and also to see that the lessees, or their suc-

Employés
and their
duties.

Water front
of San Fran-
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Water front
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cessors or assigns, do not exercise rights and privileges that are not conferred by said leases), bounded as follows, to wit: Commencing at the point where the easterly line of the Presidio Reservation intersects the water-line front, as established by the Board of State Tide Land Commissioners; thence easterly along said water-line front to the center of Webster Street; thence southerly along the center of Webster Street to the center of Lewis Street; thence easterly along the center of Lewis Street to the center of Polk Street; thence southerly along the center of Polk Street to the center of Tonquin Street; thence easterly along the center of Tonquin Street to the center of Larkin Street; thence southerly along the center of Larkin Street to the center of Jefferson Street; thence easterly along the center of Jefferson Street to the center of Powell Street; thence southerly along the center of Powell Street to the center of Beach Street; thence easterly along the center of Beach Street to the center of Dupont Street; thence southerly along the center of Dupont Street to the center of North Point Street; thence easterly along the center of North Point Street to the center of Kearny Street; thence southerly along the center of Kearny Street to the center of Francisco Street; thence easterly along the center of Francisco Street to the center of Montgomery Street; thence along the center of Montgomery Street to the center of Chestnut Street; thence easterly along the center of Chestnut Street to the center of Sansome Street; thence southerly along the center of Sansome Street to the center of Lombard Street; thence easterly along the center of Lombard Street to the center of Battery Street; thence southerly along the center of Battery Street to the center of Greenwich Street; thence easterly along the center of Greenwich Street to the center of Front Street; thence southerly along the center of Front Street to the center of Vallejo Street; thence easterly along the center of Vallejo Street to the center of Davis Street; thence southerly along the center of Davis Street to the center of Pacific Street; thence easterly along the center of Pacific Street to the center of East Street; thence southerly along the center of East Street to the center of Folsom Street; thence westerly along the center of Folsom Street to the center of Steuart Street; thence southerly along the center of Steuart Street to the center of Harrison Street; thence southerly on a direct line with said Steuart Street two hundred and fifty-

three feet nine inches, to the center of a street the name of which is not on a map; thence at right angles, westerly, along the center of said street to the center of Spear Street; thence southerly along the center of Spear Street to the center of Bryant Street; thence westerly along the center of Bryant Street to the center of Beale Street; thence southerly along the center of Beale Street to the center of Brannan Street; thence westerly along the center of Brannan Street to the center of First Street; thence southerly along the center of First Street to the center of Townsend Street; thence westerly along the center of Townsend Street five hundred and fifty feet to the center of a street the name of which is not on a map; thence at right angles southerly along the center of said street to the center of King Street; thence along the center of King Street to the center of Second Street; thence southerly along the center of Second Street to the center of Berry Street; thence westerly along the center of Berry Street to the center of Third Street; thence southerly along the center of Third Street to the northerly line of Channel Street; thence westerly along the last mentioned line to the easterly line of Fifth Street; thence southerly along said last mentioned line to the southerly line of said Channel Street; thence easterly along said mentioned line to the center of Kentucky Street; thence southerly along the center of Kentucky Street to the center of Fourth Street; thence along the center of Fourth Street to the center of Louisiana Street; thence southerly along the center of Louisiana Street to the center of El Dorado Street; thence along the center of El Dorado Street to the center of Illinois Street; thence southerly along the center of Illinois Street to the center of Solano Street; thence easterly along the center of Solano Street to the water front line established by the Board of State Tide Land Commissioners; thence southerly along said last mentioned line to the center of Tulare Street; thence westerly along the center of Tulare Street to the center of Texas Street; thence southerly along the center of Texas Street to the center of Islais Street; thence easterly along the center of Islais Street to the center of Water-front Street; thence southerly along the center of Water-front Street to the center of India Street; thence westerly, southerly, and easterly, along the center of said India Street to the center of

Water front
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Water front
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Water-front Street, to the center of China Street; thence westerly along the center of China Street to the center of Third Avenue; thence southerly along the center of Third Avenue to the northerly line of the property of the California Dry-dock Company; thence easterly along said last mentioned line to the water front established by the Board of State Tide Land Commissioners; thence southerly along and around said dry-dock company's land to the south-easterly corner thereof; thence westerly along the line of said land to the center of Water-front Street; thence southerly along the center of Water-front Street to the center of Nineteenth Avenue; thence westerly along the center of Nineteenth Avenue to the center of Dock Street; thence southerly along the line of Dock Street to the center of Twenty-third Avenue; thence westerly along the center of Twenty-third Avenue to the center of H Street; thence southerly along the center of H Street to the center of Twenty-fourth Avenue; thence easterly along the center of Twenty-fourth Avenue to the centre of Water-front Street, and thence southerly along the center of said Water-front Street to the southern boundary of the County of San Francisco; thence along the southerly, easterly, and northerly boundary lines of said county to a point due north of the place of commencement, and thence south to the place of commencement. * * * And said Commissioners, in addition to a general control over said premises, shall have authority to use, for loading and landing merchandise, with a right to collect dockage, wharfage and tolls thereon, such portion of the streets of the City and County of San Francisco ending or fronting upon the waters of said bay as may be used for such purposes without obstructing the same as thoroughfares, and authority to rent an office in the City and County of San Francisco, between Montgomery, Market and Pacific Streets and the city front; and purchase from time to time suitable books for the records of the Secretary and accounts of the Wharfingers, together with such stationery as may be required by the Board, and to fix and regulate from time to time the rates of dockage, wharfage, crantage, tolls, and rents, and collect such an amount of revenue therefrom as will enable the Commissioners to perform the duties required of them by authority of this article. And the Commissioners and Mayor of San Francisco may so modify and establish such rates of dockage and wharfage as will produce a revenue

not to exceed in amount the moneys collected in the year eighteen hundred and seventy-five, collecting as near as possible equal amounts from dockage and wharfage. When such modification has been made, the collection of tolls must be abolished, and the Toll Collectors discharged. The Commissioners shall construct such number of wharves as the wants of commerce shall require, and shall locate such wharves, at such points and upon such lines, as the Board may deem most suitable for the best interest of commerce, and shall repair and maintain all the wharves, piers, quays, landings, and thoroughfares the wants of commerce may require, and generally to erect all such improvements as may be necessary for the safe landing, loading, and unloading, and protection of all classes of merchandise, and for the safety and convenience of passengers passing into and out of the City and County of San Francisco by water. But no wharf shall be extended into the bay more than six hundred feet beyond the inside line, or line nearest the shore of the City and County of San Francisco, described in this article, or more than six hundred feet beyond the permanent waterfront line when established under the provisions of this article, nor shall any such wharf be constructed upon such place or line as will cause any slip or dock to be less than one hundred and thirty-six feet wide at the most narrow point between the wharves. * * * All classes of water-craft that uses or makes fast to any wharf, pier, quay, landing, or thoroughfare, and lands upon or loads therefrom any goods, wares, or merchandise, shall be liable and must pay to the Commissioners such rates of dockage as shall be fixed by authority of this article; and all such water-craft as shall discharge or receive any goods, wares, or merchandise, while moored in any slip, dock, or basin, within the jurisdiction of the Commissioners, shall pay one-half the regular rates of dockage. Any water-craft that shall leave any wharf, pier, quay, landing, thoroughfare, slip, dock, or basin, unless forced to do so by stress of weather, without first paying the dockage due from such vessel, shall be liable to pay double the regular rates. The charge for wharfage and tolls shall be a lien upon all goods, wares, and merchandise landed upon any of the wharves, piers, quays, landings, or thoroughfares, upon the premises described in this article; and the Commissioners, their agents

Water front
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or lessees, may hold possession of any such goods, wares, or merchandise, so landed as aforesaid, to secure the payment of such wharfage and tolls; and for the purpose of such lien, are deemed to have possession of such goods, wares, and merchandise, so landed, until such charges for wharfage and tolls are paid. The Commissioners shall have power to make reasonable rules and regulations concerning the control and management of the property of the State, which is intrusted to them by virtue of this article, and said Commissioners are hereby authorized and required to make without delay, and from time to time, and publish not less than thirty days, in a daily newspaper of general circulation, published in the City and County of San Francisco, all needful rules and regulations, not inconsistent with the laws of the State or of the United States, in relation to the moving and anchoring of vessels in said harbor, providing and maintaining free, open, and unobstructed passage-ways for steam ferry boats and other steamers navigating the waters of the bay of San Francisco and the fresh water tributaries of said bay, so that such steamers can conveniently make their trips without impediment from vessels at anchor or other obstacles. And said Commissioners may also make all needful rules and regulations governing the removal of such vessels from the wharves and other landings, and from slips and docks, as are not engaged in receiving or discharging cargo, prescribing the time during which goods, wares, and merchandise, landed upon any wharf, pier, quay, landing, or thoroughfare, shall be permitted to remain thereon, and may divide the same into several classes, and may, by such rules and regulations, provide that in case any such goods, wares, or merchandise remain upon any wharf, pier, quay, landing, or thoroughfare beyond the term so prescribed, the respective Wharfinger may, under the order of the Commissioners, remove and deposit the same in a suitable place, at the charge, risk, and expense of the owner thereof. When any goods, wares, or merchandise shall have remained upon any wharf, pier, quay, landing, or thoroughfare more than twenty-four hours, the Commissioners may, in their discretion, charge such additional rates for each subsequent day as in their opinion is just and equitable. The Commissioners may, in their discretion, * * * set apart and assign for the exclusive use of steam ferry boats, suitable slips, in which such

structures may be erected as will secure the safe and convenient landing of passengers, and safe landing and delivery of freight; set apart and assign suitable wharves, berths, or landings for the exclusive use of sea-going steamers, to construct suitable sheds, gates, and other temporary structures as may be necessary for the safe and convenient landing of passengers, and safe landing and delivery of freight.

* * * The Commissioners may assign suitable places for the landing of horses, cattle, sheep, and swine, and when such places have been assigned it shall be a misdemeanor for a commander of any water-craft to land any greater number than ten at any one time from any water-craft at any other place. * * * No person or company shall, without the consent of the Board of State Harbor Commissioners, land or remove any goods, wares, or merchandise, or other thing, upon or from any wharf, pier, quay, landing, or thoroughfare, situate upon the premises described in this article, unless authorized to do so by virtue of valid lease; nor shall any person collect dockage, wharfage, crantage, rent, or toll, within the boundaries of the premises described in this article, except by virtue of valid leases, without first obtaining permission to do so from said Commissioners; nor shall any person or company place or cause to be placed any obstructions in that portion of the Bay of San Francisco described in this article, nor upon any wharf, pier, quay, landing, or thoroughfare, without the consent of the Board. Whenever any wharf, pier, quay, landing, or thoroughfare, in the Harbor of San Francisco, shall be encumbered, or their free use interfered with, by goods, wares, merchandise, or other substance, whether loose or built upon, or fixed to any such wharf, pier, quay, landing, or thoroughfare, it shall be the duty of the Commissioners to notify, in writing (which notice may be served by a Wharfinger, or by the Secretary or Assistant Secretary of the Board), the owner, agent, occupant, or person placing or keeping such obstructions thereon, to remove the same within twenty-four hours after the serving of such notice, and in case of failure to comply with such notice, and remove such obstructions, the owner, agent, occupant, or person so notified, shall be liable to pay the Commissioners the sum of twenty-five dollars for each and every day during which such obstruction shall remain upon any such wharf, pier, quay, landing, or thorough-

Water front
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fare; and the Commissioners shall have power, in their discretion, to remove any such encumbering substance, and store the same in any suitable, convenient, and safe place, and a sum equal to the amount of the expenses of the removal, together with all other necessary charges, shall be paid by the owner of such encumbering substance to the Commissioners, and such sum and necessary charges shall be a lien on such substance until paid. The rates of dockage, wharfage, and tolls shall not exceed those established by the Board of State Harbor Commissioners, July first, eighteen hundred and seventy-four, and dockage shall not be collected on any vessel lying at anchor outside of dock, wharf, or slip. (Amendment, approved February 28, 1876; Amendments 1875-6, 32; took effect from passage.)

Office and
duties of
Chief
Wharfinger.

SEC. 2539. The Chief Wharfinger shall keep an office in some convenient place upon the city front, between Market and Pacific Streets, which shall be kept open every day (Sundays and holidays excepted), from seven A. M. till six P. M. The Commissioners shall furnish a suitable building for an office, for the exclusive use of said Chief Wharfinger and Assistant Chief Wharfinger, with suitable office furniture. It shall be the duty of the Chief Wharfinger to execute and enforce the rules and regulations which may be established by said Board of State Harbor Commissioners pursuant to the provisions of this article. And it shall be the duty of all pilots, masters of tug-boats, masters, owners, and consignees of vessels, to obey all lawful orders and directions of the Chief Wharfinger in relation to the stationing, anchoring, and removing of vessels under and pursuant to such rules and regulations. The Chief Wharfinger is empowered to determine cases of collision by consent of all parties interested, and where damages do not exceed three hundred dollars the decision is final. (Amendment, approved February 28, 1876; Amendments, 1875-6, 32; took effect from passage.)

Duties of
Chief Wharf-
inger as to
abandoned
water-craft
and boats
adrift.

SEC. 2540. In addition to the duties required to be performed by the Chief Wharfinger, by any section in this article preceding this section, he shall take in charge all abandoned water-craft and all boats picked up adrift, and secure the same, after which he shall advertise, for one week, in one of the daily newspapers printed in the City and County of San Francisco, giving the full particulars pertain-

ing to the same, and request all parties interested to appear and establish their title or claim thereto, within twenty days from the last publication. If claimed within said period, such property shall be delivered to the owner on payment of all costs of removing, securing, and advertising the same. If not claimed within said period, or if the owner fails to pay the charges, such property shall be sold by the Chief Wharfinger, to the highest bidder, at public auction, and the proceeds, less the costs, shall be paid the owner, if claimed by him, or, if not claimed by the owner, shall be paid to the Board of State Harbor Commissioners; but the owner shall be entitled to receive from said Board the amount so paid, if he shall claim the same within one year from the date of said payment. For the purposes of this section the Harbor of San Francisco shall be the tide-waters of the City and County of San Francisco, and the jurisdiction of the Chief Wharfinger shall, when performing the duties required by this section, be co-extensive with such tide-waters. (Amendment, approved February 28, 1876; Amendments, 1875-6, 32; took effect from passage.)

SEC. 2541. If any master, agent, or owner of any water-craft, shall refuse or neglect to obey the lawful orders or directions of the Chief Wharfinger in any matter pertaining to the regulations of said harbor, or the removal or stationing of any water-craft, such master, agent, or owner, so refusing or neglecting, is guilty of a misdemeanor, and upon conviction thereof before any Court of competent jurisdiction shall be punished by a fine not to exceed three hundred dollars, or by imprisonment not to exceed one hundred days in the jail of the City and County of San Francisco. (Amendment, approved February 28, 1876; Amendments, 1875-6, 32; took effect from passage.)

Refusal to
obey lawful
orders of
Chief
Wharfinger.

SEC. 2542. All persons are forbidden to deposit, or cause to be deposited, in the waters of the Harbor of San Francisco, as described in the preceding sections, any substance that will sink and form an obstruction to navigation, without first obtaining permission in writing of the Board of State Harbor Commissioners, which permission shall describe, with an ordinary degree of certainty, the place where such deposit may be made, and the Secretary of the Board shall record such permission. Any person violating the prohibition contained in this section is guilty of a misdemeanor, and upon

Obstruc-
tions to
navigation.

conviction thereof before a Court of competent jurisdiction shall be fined not less than one hundred or more than five hundred dollars, or imprisoned in the jail of the City and County of San Francisco not less than thirty nor more than ninety days; *provided*, that nothing herein shall be construed to prevent or interfere with the construction of works now in progress in connection with the Oakland Harbor. (Amendment, approved February 28, 1876; Amendments, 1875-6, 32; took effect from passage.)

An Act authorizing and directing the Board of State Harbor Commissioners to reduce or abolish the rate of dockage, wharfage, and tolls.

[Approved March 30, 1872; 1871-2, 797.]

Reduction
of rates of
dockage,
wharfage,
and tolls.

SECTION 1. The Board of State Harbor Commissioners are hereby authorized and directed to reduce the rates of dockage, wharfage and tolls, or to abolish the same, or any of them, and shall, on or before the first day of March, A. D. eighteen hundred and seventy-two, reduce the same, so that the rates thereafter to be charged and collected shall not exceed fifty per cent. of the rates charged at the date of the passage of this Act.

Reduction
on leases.

SEC. 2. Whenever the Board reduces the rates of dockage, wharfage, or tolls below the present rates, they may make a proportionate reduction on the monthly payments on all leases of the water front leased by said Board.

SEC. 3. This Act shall take effect from and after its passage.

Extracts from an Act concerning the State Harbor Commissioners, and for other purposes.

[Approved March 30, 1874; 1873-4, 910.]

Harbor of
San Fran-
cisco.

SECTION 1. The Harbor of San Francisco is hereby placed under the control of the Board of State Harbor Commissioners, and they are authorized to regulate the position of ships, their moorings and anchorage, and generally to make rules and regulations concerning them, with power to enforce

the same as fully as that formerly used and exercised by the Harbor-master of the City and County of San Francisco.

SEC. 2. The Commissioners shall keep the routes of the ferry boats, passing in and out of said harbor, free and open at all times, so that ferry boats can conveniently make their trips without impediment on the part of vessels at anchor, or other obstacles.

Routes of
ferry boats.

CHAPTER II.

HIGHWAYS.

ARTICLE II.

RULES AND RESTRICTIONS RESPECTING THE USE OF HIGHWAYS.

SECTION 2634. Every gas, water, or railroad corporation has power to lay conductors and tracks through the public ways and squares in any city, village, or town, when it is established, with the consent of the municipal authorities thereof, and under such reasonable regulations as the authorities and the law prescribe.

Gas, water,
and railroad
corporations
may lay
down con-
ductors and
track.

SECTION 2635. The cases and manner in which railroad, plank road, turnpike, and common wagon road corporations may acquire a right of way upon the public highways, are provided for in the subsequent chapters of this Code, in title seven, part three, of the Code of Civil Procedure, and under title "Corporations" of the Civil Code.

Other
corporations
may acquire
right of way.

ARTICLE V.

PERFORMANCE OF HIGHWAY LABOR AND COMMUTATION.

SECTION 2681. Corporations or other employers of residents in any highway district are responsible for the road poll tax assessed against their employés, and a notice to the employer or managing agent, requiring the payment of the road poll tax of the employé, charges such employer or corporation with such road poll tax.

Employers
responsible
for highway
labor
assessed to
employés.

ARTICLE VI.

LAYING OUT, ALTERING, AND DISCONTINUING ROADS.

Roads crossing railroads, canals, or ditches.

SECTION 2713. Whenever highways are laid out to cross railroads, canals, or ditches on public lands, the owners or corporations using the same must, at their own expense, so prepare their roads, canals, or ditches that the public highway may cross the same without danger or delay; and when the right of way for a public highway is obtained through the judgment of any Court over any railroad, canal, or ditch, no damages must be awarded for the simple right to cross the same.

CHAPTER V. .

WHARVES, CHUTES, AND PIERS.

Board of Supervisors to authorize construction.

SECTION 2906. The Boards of Supervisors of every county in this State may grant authority to any person or corporation to construct a wharf, chute, or pier on any lands bordering on any navigable bay, lake, inlet, creek, slough, or arm of the sea, situate in or bounding their counties respectively, with a license to take tolls for the use of the same for the term of twenty years.

Application, what to contain and how made.

SEC. 2907. Application therefor must be made by publishing notice, as required in section two thousand eight hundred and ninety-two, and filing a petition, in writing, containing:

1. The name and residence of the applicant; and if a corporation, a certified copy of the articles of incorporation;
2. A map of the waters, and the name and location thereof, and of the adjoining lands;
3. The plan of the wharf, chute, or pier proposed to be constructed, and of the land within three hundred feet thereof;
4. The names of the owners of the lands, and the quantity thereof sought to be used, and whether the right to use the same is or is to be acquired by the applicant;
5. The distance it is proposed to extend the wharf, chute, or pier into the waters;
6. The estimated cost of the construction of the wharf, chute, or pier; and

7. The time when the application will be made.

SEC. 2908. When any lands are sought to be appropriated and used for a wharf, chute, or pier, of which the applicant is not the owner, or the right of way and use thereof has not been obtained by agreement, these facts, and the particular description of such land, must be set forth in the petition of the applicant, and a copy of the notice of application must be served on the owner thereof by the Sheriff of the county, whose official return is conclusive evidence of service, at least ten days prior to the appointed day set for the hearing of the same.

What petition to contain, relative to lands not owned by applicant.

SEC. 2909. When the owner of the land is a non-resident of the county, it is service of notice for the Sheriff to leave a copy with the occupant or agent of the owner; if none, then to place a copy in the post-office, addressed to the owner, thirty days prior to the day set for the hearing. If the owner is a minor, insane, idiot, or decedent, notice must be served on the guardian, administrator, or other legal representative of such person.

Notice to be served on representatives of certain persons.

SEC. 2910. On the day named in the notice, or to which the hearing is adjourned, the Board of Supervisors must hear proof of publication and service of notice; if satisfactory, the Board must hear the allegations of the petition and any objections to the granting of the application, and proofs in support of each. If from the the proofs it appear that the public good or convenience will be promoted thereby, the Board of Supervisors may grant to the applicant the right to erect or construct a wharf, chute, or pier as prayed for, and to take toll for the use of the same for the term of twenty years.

Board to hear proof, and may grant authority.

SEC. 2911. The grant of authority made by the Board of Supervisors, as provided in the preceding section, conveys to the grantee or applicant the right of way and all necessary use for the purposes of the wharf, chute, or pier, of any of the overflowed, submerged, or tide lands belonging to the State, particularly describing the quantity thereof in the order, as also the right of way over any swamp, overflowed, marsh, or tide lands lying between the wharf, chute, or pier and high or dry land, fifty feet in width, for twenty years.

Overflowed or tide lands granted.

SEC. 2912. The grant of authority herein provided for carries with it the right to have unincumbered and unobstructed the land and water on each side of the wharf, chute,

One hundred and fifty feet on each side of wharf, etc.

or pier, from high water mark to navigable water, a distance of one hundred and fifty feet, for the convenience of landing, loading, and unloading vessels, but for no other purpose.

How to obtain use of lands.

SEC. 2913. Authority to construct a wharf, chute, or pier being granted, the grantee or applicant may procure from the owner the right of way and other necessary incidental use for the wharf, chute, or pier, of any of his lands, by proceedings had under title seven, part three, of the Code of Civil Procedure. Until such use of the lands held adversely is obtained by agreement, or by the proceedings hereinbefore mentioned, there is no authority to construct a wharf, chute, or pier, or to take tolls thereon.

Seventy-five feet in width.

SEC. 2914. The wharf, chute, or pier must not be of a greater width than seventy-five feet, and may extend to navigable water, but not so far as in anywise to impede or obstruct the free navigation of the water on which the same is situated.

Franchise, what to constitute.

SEC. 2915. The orders granting authority, and agreements, contracts, deeds, and decrees of Courts granting the right of way and other use of lands, must be filed and recorded in the office of the Recorder of the county where the wharf, chute, or pier is situate, and constitutes the franchise of the applicant. The fees of the Recorder, as also the fees of the Clerk, Sheriff, and other officers, for services rendered, must be paid by the applicant.

Board of Supervisors to fix rate of tolls, etc.

SEC. 2916. The Board of Supervisors must fix the rate of tolls or wharfage for the use of the wharf, chute, or pier, annually, which must not produce an income of less than fifteen per cent. per annum nor more than twenty-five per cent. per annum on the fair cash value of the wharf, chute, or pier, and on the cost of repair and maintenance thereof, exclusive of the amount paid for license imposed by the next section. Such value and cost of repair and maintenance to be fixed by the Board of Supervisors when levying the rates of tolls or wharfage, by hearing evidence and examining the assessment rolls of the county. When fixed, the rates must be furnished the owner, and a printed or written copy thereof conspicuously posted on the wharf, chute, or pier. (Amendment, approved March 24, 1876; Amendments, 1875-6, 52; took effect immediately.)

License, and the tax for.

SEC. 2917. When the wharf, chute, or pier is completed, and the tolls or wharfage fixed, the owner is entitled to a

license to take the tolls thereon for the term of one year, to be issued by the County Auditor, on the payment of such license tax as the Board of Supervisors may fix, which, except that for the first year, must not be more than ten per cent. of the gross receipts for tolls or wharfage for the previous year, to be paid to the county treasury for general road purposes.

SEC. 2918. Any owner or keeper of a wharf, chute, or pier, who takes toll or wharfage for the use of the same when not in good repair, or is unsafe or dangerous, forfeits the sum of twenty-five dollars, to be recovered by order of the Board of Supervisors granting authority to construct it, for the use of the general Road Fund of the county, and is liable for all damages occasioned thereby.

SEC. 2919. No authority must be granted under this chapter to interfere with vested rights, nor to interfere with or infringe grants heretofore made by State authority; nor does authority to construct a wharf, chute, or pier continue for a longer period than two years, unless the same is within that time completed.

SEC. 2920. The lands of the State situate in the City and County of San Francisco, and those otherwise disposed of or situate within the limits of any incorporated town or city of this State, are excluded from the provisions of this chapter. The municipal authorities of any incorporated city or town, other than San Francisco, may grant authority to construct wharves, chutes, and piers, as is herein provided for the Board of Supervisors.

TITLE VII. CHAPTER VI.

ARTICLE II.

UNCLAIMED PROPERTY.

SECTION 3152. When any goods, merchandise, or other property has been received by any railroad or express company, or other common carrier, commission merchants, innkeepers, or warehousemen, for transportation or safe keeping, and are not delivered to the owner, consignee, or other authorized person, the carrier, commission merchant, inn-

To keep in good repair.

Restrictions on granting authority.

Cities and towns incorporated exempted and authorized.

Common carriers may retain goods until charges are paid.

keeper, or warehouseman, may hold or store the same with some responsible person until the freight and all just and reasonable charges are paid.

Property
unclaimed
within sixty
days to be
sold, how.

SEC. 3153. If no person calls for the property within sixty days from the receipt thereof and pays freight and charges thereon, the carrier, commission merchant, innkeeper, or warehouseman may sell such property, or so much thereof, at auction to the highest bidder, as will pay freight and charges, first having given twenty days' notice of the time and place of sale to the owner, consignee, or consignor, when known, and by advertisement in a daily paper ten days (or if in a weekly paper, four weeks), published where such sale is to take place; and if any surplus is left after paying freight, storage, cost of advertising, and other reasonable charges, the same must be paid over to the owner of such property at any time thereafter, upon demand being made therefor within sixty days after the sale.

Proceeds
unclaimed,
where to go.

SEC. 3154. If the owner or his agent fails to demand such surplus within sixty days of the time of such sale, then it must be paid into the county treasury, subject to the order of the owner.

Carrier's
responsibil-
ity ceases,
when.

SEC. 3155. After the storage of goods, merchandise, or property, as herein provided, the responsibility of the carrier ceases, nor is the person with whom the same is stored liable for any loss or damage on account thereof, unless the same results from his negligence or want of proper care.

CHAPTER VIII.

WEIGHTS AND MEASURES.

Standard of
weights and
measures.

SECTION 3209. The standard weights and measures now in charge of the Secretary of State being the same that were furnished to this State by the Government of the United States, and consisting of one standard yard measure; one set of standard weights, comprising one troy pound, and nine avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five, and fifty pounds, respectively; one set of standard troy ounce weights, divided decimally from ten ounces to the one ten-thousandth of an ounce; one set of standard liquid capacity measures, consisting of one wine gallon of

two hundred and thirty-one cubic inches, one-half gallon, one quart, one pint, and one-half pint measure; and one standard half bushel, containing one thousand and seventy-five cubic inches and twenty-one hundredths of a cubic inch, according to the inch hereby adopted as the standard, are the standards of weights and measures throughout the State.

SEC. 3210. The standard yard is the unit or standard measure of length and surface from which all other measures of extension, whether lineal, superficial, or solid, are derived and ascertained. Unit of extension.

SEC. 3211. The yard is divided into three equal parts, called feet, and each foot into twelve equal parts, called inches; for measures of cloth and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths, and sixteenths. Division of yard.

SEC. 3212. The rod, pole, or perch contains five and a half yards, and the mile one thousand seven hundred and sixty yards; the chain for measuring land is twenty-two yards long, and divided into one hundred equal parts called links. Rod, mile, and chain.

SEC. 3213. The acre for land measure must be measured horizontally, and contains ten square chains, and is equivalent in area to a rectangle sixteen rods in length and ten in breadth; six hundred and forty acres being contained in a square mile. Acre.

SEC. 3214. The standard avoirdupois and troy weights are the units or standards of weight, from which all other weights are derived and ascertained. Unit of weights.

SEC. 3215. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, is divided into sixteen equal parts, called ounces; the hundred weight consists of one hundred avoirdupois pounds, and twenty hundred weight constitute a ton. The troy ounce is equal to the twelfth part of the troy pound. Division of pound.

EXTRACTS FROM THE CIVIL CODE.

PRELIMINARY PROVISIONS.

When this
Code takes
effect.

SECTION 2. This Code takes effect at twelve o'clock noon, on the first day of January, eighteen hundred and seventy-three.

Not retro-
active.

SEC. 3. No part of it is retroactive, unless expressly so declared.

Rules of con-
struction.

SEC. 4. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions are to be liberally construed with a view to effect its objects and to promote justice.

Provisions
similar to
existing
laws, how
construed.

SEC. 5. The provisions of this Code, so far as they are substantially the same as existing statutes or the common law, must be construed as continuations thereof, and not as new enactments.

Actions, etc.,
not affected.

SEC. 6. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions.

Words and
phrases, how
construed.

SEC. 13. Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition.

Certain
terms
defined.

SEC. 14. Words used in this Code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word person includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration; and every mode of oral state-

ment, under oath or affirmation, is embraced by the term "testify;" and every written one, in the term "depose;" signature or subscription includes mark, when the person cannot write, his name being written near it, and written by a person who writes his own name as a witness. The following words also have, in this Code, the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes property, real and personal. Property.

2. The words "real property" are co-extensive with lands, tenements, and hereditaments. Real property.

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt. Personal property.

4. The word "month" means a calendar month, unless otherwise expressed. Month.

5. The word "will" includes codicils. (Amendment, approved March 30, 1874; Amendments 1873-4, 181; took effect July 1, 1874.)

SEC. 18. Notice is:

1. Actual—which consists in express information of a fact; or, Notice, actual and constructive.

2. Constructive—which is imputed by law.

SEC. 19. Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact. (Amendment, approved March 30, 1874; Amendments 1873-4, 182; took effect July 1, 1874.) Constructive notice.

SEC. 20. No statute, law, or rule is continued in force because it is consistent with the provisions of this Code on the same subject; but in all cases, provided for by this Code, all statutes, laws, and rules heretofore in force in this State, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed or abrogated. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued, or any action or proceeding already taken, except as in this Code provided. Effect of repeal.

PART IV.

CORPORATIONS.

TITLE I.

GENERAL PROVISIONS APPLICABLE TO ALL CORPORATIONS.

CHAPTER I.

FORMATION OF CORPORATIONS.

ARTICLE I.

CORPORATIONS DEFINED AND HOW ORGANIZED.

Corporation
defined.

SECTION 283. A corporation is a creature of the law, having certain powers and duties of a natural person. Being created by the law, it may continue for any length of time which the law prescribes.

Corporations
public and
private, dis-
tinguished.

SEC. 284. Corporations are either public or private. Public corporations are formed or organized for the government of a portion of the State; all other corporations are private. (Amendment, approved March 30, 1874; Amendments 1873-4, 197; took effect July 1, 1874.)

Private cor-
porations,
how formed.

SEC. 285. Private corporations may be formed by the voluntary association of any five or more persons, in the manner prescribed in this article. A majority of such persons must be residents of this State. (Amendment, approved March 30, 1874; Amendments 1873-4, 197; took effect July 1, 1874.)

Corporations
may be
formed for
any lawful
purpose.

SEC. 286. Private corporations may be formed for any purpose for which individuals may lawfully associate themselves. (Amendment, approved March 30, 1874; Amendments 1873-4, 198; took effect July 1, 1874.)

Continuance
of existence
under pro-
visions of
Code.

SEC. 287. Any corporation existing on the first day of January, one thousand eight hundred and seventy-three, formed under the laws of this State, and still existing, which has not already elected to continue its existence, under the provisions of this Code applicable thereto, may, at any time hereafter, make such election by the unanimous vote of all

of its directors, or such election may be made at any annual meeting of the stockholders or members, or at any meeting called by the directors expressly for considering the subject, if voted by stockholders representing a majority of the capital stock, or by a majority of the members, or may be made by the directors upon the written consent of that number of such stockholders or members. A certificate of the action of the directors, signed by them and their Secretary, when the election is made by their unanimous vote, or upon the written consent of the stockholders or members, or a certificate of the proceedings of the meeting of the stockholders or members, when such election is made at any such meeting, signed by the Chairman and Secretary of the meeting, and a majority of the directors, must be filed in the office of the Clerk of the county where the original articles of corporation are filed, and a certified copy thereof must be filed in the office of the Secretary of State; and thereafter the corporation shall continue its existence under the provisions of this Code which are applicable thereto, and shall possess all the rights and powers, and be subject to all the obligations, restrictions, and limitations prescribed thereby. (Amendment, approved March 30, 1874; Amendments 1873-4, 198; took effect July 1, 1874.

SEC. 288. No corporation formed or existing before twelve o'clock, noon, of the day upon which this Code takes effect, is affected by the provisions of part four of division first of this Code, unless such corporation elects to continue its existence under it as provided in section two hundred and eighty-seven; but the laws under which such corporations were formed and exist are applicable to all such corporations, and are repealed, subject to the provisions of this section.

Existing
corporations
not affected.

SEC. 289. The instrument by which a private corporation is formed is called "articles of incorporation."

Name of
instrument
creating
corporation.

SEC. 290. Articles of incorporation must be prepared, setting forth:

Articles of
incorpora-
tion, what
to contain.

1. The name of the corporation;
2. The purpose for which it is formed;
3. The place where its principal business is to be transacted;
4. The term for which it is to exist, not exceeding fifty years;
5. The number of its directors or trustees, and the names

and residences of those who are appointed for the first year; *provided*, at any time during the existence of the corporation, the number of the directors may be increased, in corporations for profit, by a majority of the stockholders of the corporation, to any number not exceeding eleven, who must be members of the corporation, whereupon a certificate stating the number of directors must be filed as provided for in section two hundred and ninety-six for the filing of the original articles of incorporation;

6. The amount of its capital stock, and the number of shares into which it is divided;

7. If there is a capital stock, the amount actually subscribed, and by whom. (Amendment, approved April 1, 1876; Amendments 1875-6, 70; took effect from passage.)

Certain corporations to state further facts in articles.

SEC. 291. The articles of incorporation of any railroad, wagon road or telegraph organization must also state:

1. The kind of road or telegraph intended to be constructed;

2. The place from and to which it is intended to be run, and all the intermediate branches.

3. The estimated length of the road or telegraph line;

4. That at least ten per cent. of the capital stock subscribed has been paid in to the Treasurer of the intended corporation.

Articles to be subscribed and acknowledged—number and qualification of signers.

SEC. 292. The articles of incorporation must be subscribed by five or more persons, a majority of whom must be residents of this State, and acknowledged by each before some officer authorized to take and certify acknowledgments of conveyances of real property. (Amendment, approved March 30, 1874; Amendments 1873-4, 199; took effect July 1, 1874.)

Prerequisites to filing articles.

SEC. 293. Each intended corporation named in section two hundred and ninety-one, before filing articles of incorporation, must have actually subscribed to its capital stock, for each mile of the contemplated work, the following amounts, to wit:

1. One thousand dollars per mile of railroad;
2. One hundred dollars per mile of telegraph lines;
3. Three hundred dollars per mile of wagon roads.

Prerequisite to filing articles of corporations for profit.

SEC. 294. Before the articles of incorporation of any corporation referred to in the preceding section are filed, there must be paid for the benefit of the corporation, to a Treasurer elected by the subscribers, ten per cent. of the amount subscribed.

SEC. 295. Before the Secretary of State issues to any such corporation a certificate of the filing of articles of incorporation, there must be filed in his office an affidavit of the President, Secretary, or Treasurer named in the articles, that the required amount of the capital stock thereof has been actually subscribed, and ten per cent. thereof actually paid to a Treasurer for the benefit of the corporation.

Oath of officer to subscription of stock and payment of ten per cent.

SEC. 296. Upon filing the articles of incorporation in the office of the County Clerk of the county in which the principal business of the company is to be transacted, and a copy thereof, certified by the County Clerk, with the Secretary of State, and the affidavit mentioned in the last section, where such affidavit is required, the Secretary of State must issue to the corporation, over the great seal of the State, a certificate that a copy of the articles containing the required statement of facts has been filed in his office: and thereupon the persons signing the articles, and their associates and successors, shall be a body politic and corporate, by the name stated in the certificate, and for the term of fifty years, unless it is in the articles of incorporation otherwise stated or in this Code otherwise specially provided. (Amendment, approved March 30, 1874; Amendments 1873-4, 199; took effect July 1, 1874.)

Articles to be filed with County Clerk and Secretary of State.

SEC. 297. A copy of any articles of incorporation filed in pursuance of this chapter, and certified by the Secretary of State, must be received in all the Courts and other places as prima facie evidence of the facts therein stated. (Amendment, approved March 30, 1874; Amendments 1873-4, 200; took effect July 1, 1874.)

Certified copy of articles as prima facie evidence.

SEC. 298. The owners of shares in a corporation which has a capital stock are called stockholders. If a corporation has no capital stock, the incorporators and their successors are called members.

Who are members and who stockholders of corporation.

[Section two hundred and ninety-nine was repealed by Act approved March thirtieth, eighteen hundred and seventy-four. (Amendments 1873-4, 200; took effect July 1, 1874.) Afterwards, a new section, two hundred and ninety-nine, was adopted and added to the Code, as follows:]

SEC. 299. No corporation hereafter formed shall purchase, locate, or hold property in any county in this State, without filing a copy of the copy of its articles of incorporation filed in the office of the Secretary of State, duly certified by such

Filing of articles of incorporation.

Filing of
articles of
incorpora-
tion.

Secretary of State, in the office of the County Clerk of the county in which such property is situated, within sixty days after such purchase or location is made. Every corporation now in existence, whether formed under provisions of this Code or not, must, within ninety days after the passage of this section, file such certified copy of the copy of its articles of incorporation in the office of the County Clerk of every county in this State in which it holds any property, and if any such corporation hereafter acquires any property in a county other than that in which it now holds property, it must, within ninety days thereafter, file with the Clerk of such county such certified copy of the copy of its articles of incorporation. The copies so filed with the several County Clerks, and certified copies thereof, shall have the same force and effect in evidence as would the originals. Any corporation failing to comply with the provisions of this section shall not maintain or defend any action or proceeding in relation to such property, its rents, issues, or profits. Any corporation which has not heretofore filed a certified copy of the certificate of its articles of incorporation may avail itself of the provisions of this Act with the same effect as if it had filed such certified copy of such certificate; *provided*, that this Act shall not affect any pending litigation, or any suit now pending in Court. (Amendment, approved March 22, 1878; Amendments 1877-8, 76; took effect sixtieth day after passage.)

ARTICLE II.

BY-LAWS, DIRECTORS, ELECTIONS, AND MEETINGS.

Adoption of
by-laws,
when, how,
and by
whom.

SECTION 301. Every corporation formed under this title must, within one month after filing articles of incorporation, adopt a code of by-laws for its government not inconsistent with the Constitution and laws of this State. The assent of stockholders representing a majority of all the subscribed capital stock, or of a majority of the members, if there be no capital stock, is necessary to adopt by-laws, if they are adopted at a meeting called for that purpose; and in the event of such meeting being called, two weeks' notice of the same by advertisement in some newspaper published in the county in which the principal place of business of the

corporation is located, or if none is published therein, then in a paper published in an adjoining county, must be given by order of the acting President. The written assent of the holders of two-thirds of the stock, or of two-thirds of the members, if there be no capital stock, shall be effectual to adopt a code of by-laws without a meeting for that purpose. (Amendment, approved March 30, 1874; Amendments 1873-4, 200; took effect July 1, 1874.)

SEC. 302. The directors of a corporation must be elected annually by the stockholders or members, and if no provision is made in the by-laws for the time of election, the election must be held on the first Tuesday in June. Notice of such election must be given, and the right to vote determined as prescribed in section three hundred and one. Directors, election of, etc.

SEC. 303. A corporation may, by its by-laws, where no other provision is specially made, provide for: By-laws, for what may provide.

1. The time, place, and manner of calling and conducting its meetings;
2. The number of stockholders or members constituting a quorum;
3. The mode of voting by proxy;
4. The time of the annual election for directors, and the mode and manner of giving notice thereof;
5. The compensation and duties of officers;
6. The manner of election and the tenure of office of all officers other than the directors; and
7. Suitable penalties for violations of by-laws, not exceeding, in any case, one hundred dollars for any one offense. (Amendment, approved March 30, 1874; Amendments 1873-4, 20; took effect July 2, 1874.)

SEC. 304. All by-laws adopted must be certified by a majority of the directors and Secretary of the corporation, and copied in a legible hand in some book kept in the office of the corporation, to be known as the "Book of By-laws," and no by-law shall take effect until so copied, and the book shall then be open to the inspection of the public during office hours of each day except holidays. The by-laws may be repealed or amended, or new by-laws may be adopted, at the annual meeting, or at any other meeting of the stockholders or members called for that purpose by the directors, by a vote representing two-thirds of the subscribers' stock, or by two-thirds of the members, or the power to repeal and By-laws to be recorded in "Book of By-laws."

amend the by-laws, and adopt new by-laws, may, by a similar vote at any such meeting, be delegated to the Board of Directors. The power when delegated may be revoked by a similar vote at any regular meeting of the stockholders or members. Whenever any amendment or new by-law is adopted, it shall be copied in the book of by-laws with the original by-laws, and immediately after them, and shall not take effect until so copied. If any by-law be repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted, shall be stated in the said book, and until so stated the repeal shall not take effect. (Amendment, approved March 30, 1874; Amendments 1873-4, 201.)

How many
and who to
be directors.

SEC. 305. The corporate powers, business, and property of all corporations formed under this title must be exercised, conducted, and controlled by a Board of not less than five nor more than eleven directors, to be elected from among the holders of stock; or where there is no capital stock, then from the members of such corporations; except that corporations formed, or to be formed, for the purpose of erecting and managing halls and buildings for the meetings and accommodation of several lodges or societies of any benevolent or charitable order or organization, and in connection therewith the leasing of stores and offices in such building or buildings for other purposes, the corporate powers, business, and property thereof may be conducted, exercised, and controlled by a Board of not less than five nor more than fifty directors, to be chosen from among the stockholders of such corporation, or from among the members of such order or organization. A majority of the directors must be, in all cases, citizens of this State. Directors of corporations for profit must be holders of stock therein in an amount to be fixed by the by-laws of the corporation. Directors of all other corporations must be members thereof. Unless a quorum is present and acting, no business performed or act done is valid as against the corporation. Whenever a vacancy occurs in the office of director, unless the by-laws of the corporation otherwise provide, such vacancy must be filled by an appointee of the Board. (Amendment, approved January 20, 1876; Amendments 1875-6, 71; took effect from passage.)

Directors
to be elected
at first
meeting.

SEC. 306. At the first meeting at which the by-laws are adopted, or at such subsequent meeting as may be then des-

ignated, directors must be elected, to hold their offices for one year, and until their successors are elected and qualified. (Amendment, approved March 30, 1874; Amendments 1873-4, 202; took effect July 1, 1874.)

SEC. 307. All elections must be by ballot, and every stockholder shall have the right to vote, in person or by proxy, the number of shares standing in his name, as provided in section three hundred and twelve of this Code, for as many persons as there are directors to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit. In corporations having no capital stock, each member of the corporation may cast as many votes for one director as there are directors to be elected, or may distribute the same among any or all of the candidates. In either case, the directors receiving the highest number of votes shall be declared elected. (Amendment, approved February 1, 1878; Amendments 1877-8, 78; took effect sixtieth day after passage.)

Elections,
how con-
ducted.

SEC. 308. Immediately after their election, the directors must organize by the election of a President, who must be one of their number, a Secretary, and Treasurer. They must perform the duties enjoined on them by law and the by-laws of the corporation. A majority of the directors is a sufficient number to form a Board for the transaction of business, and every decision of a majority of the directors forming such Board, made when duly assembled, is valid as a corporate act.

Organiza-
tion of Board
of Directors,
etc.

SEC. 309. The directors of corporations must not make dividends, except from the surplus profits arising from the business thereof; nor must they divide, withdraw, or pay to the stockholders, or any of them, any part of the capital stock; nor must they create debts beyond their subscribed capital stock, or reduce or increase the capital stock, except as hereinafter specially provided. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen), are, in their indi-

Dividends
to be made
from surplus
profits.*

vidual and private capacity, jointly and severally liable to the corporation, and to the creditors thereof, in the event of its dissolution, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced, or debt contracted; and no statute of limitations is a bar to any suit against such directors for any sums for which they are made liable by this section. There may, however, be a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution, or the expiration of its term of existence.

Removal
from office of
directors,
etc.

SEC. 310. No director shall be removed from office unless by a vote of two-thirds of the members, or of stockholders holding two-thirds of the capital stock, at a general meeting held after previous notice of the time and place, and of the intention to propose such removal. Meetings of stockholders for this purpose may be called by the President, or by a majority of the directors, or by members or stockholders holding at least one-half of the votes. Such calls must be in writing, and addressed to the Secretary, who must thereupon give notice of the time, place, and object of the meeting, and by whose order it is called. If the Secretary refuses to give the notice, or if there is none, the call may be addressed directly to the members or stockholders, and be served as a notice, in which case it must specify the time and place of meeting. The notice must be given in the manner provided in section three hundred and one of this title, unless other express provision has been made therefor in the by-laws. In case of removal, the vacancy may be filled by election at the same meeting.

Justice of
Peace may
order meet-
ing, when.

SEC. 311. Whenever, from any cause, there is no person authorized to call or to preside at a meeting of a corporation, any Justice of the Peace of the county where such corporation is established may, on written application of three or more of the stockholders or of the members thereof, issue a warrant to one of the stockholders or members, directing him to call a meeting of the corporation, by giving the notice required, and the Justice may in the same warrant direct such person to preside at such meeting until a clerk is chosen and qualified, if there is no other officer present legally authorized to preside thereat.

SEC. 312. At all elections or votes had for any purpose there must be a majority of the subscribed capital stock, or

of the members, represented, either in person or by proxy in writing. Every person acting therein (in person or by proxy or representative) must be a member thereof or a bona fide stockholder, having stock in his own name on the stock books of the corporation at least ten days prior to the election. Any vote or election had other than in accordance with the provisions of this article is voidable at the instance of absent or any stockholders or members, and may be set aside by petition to the District Court of the county where the same was held. Any regular or called meeting of the stockholders or members may adjourn from day to day, or from time to time, if for any reason there is not present a majority of the subscribed stock or members, or no election had, such adjournment and the reasons thereof being recorded in the journal of proceedings of the Board of Directors. (Amendment, approved April 1, 1878; Amendments 1877-8, 79; took effect from passage.)

Majority of stock must be represented, and majority vote at elections.

SEC. 313. The shares of stock of an estate of a minor, or insane person, may be represented by his guardian, and of a deceased person by his executor or administrator. (Amendment, approved March 30, 1874; Amendments 1873-4, 203; took effect July 1, 1874.)

Stock of minors, insane, or deceased, how represented.

SEC. 314. If from any cause an election does not take place on the day appointed in the by-laws, it may be held on any day thereafter as is provided for in such by-laws, or to which such election may be adjourned or ordered by the directors. If an election has not been held at the appointed time, and no adjourned or other meeting for the purpose has been ordered by the directors, a meeting may be called by the stockholders, as provided in section three hundred and ten of this article.

Election may be postponed.

SEC. 315. Upon the application of any person, or body corporate, aggrieved by any election held by any corporate body, the District Court of the district in which such election is held must proceed forthwith to hear the allegations and proofs of the parties, or otherwise inquire into the matters of complaint, and thereupon confirm the election, order a new one, or direct such other relief in the premises as accords with right and justice. Upon filing the petition, and before any further proceedings are had under this section, five days' notice of the hearing must be given under the direction of the Court, or the Judge thereof, to the adverse

Complaints, quo warranto, and proceedings regarding elections.

party, or those to be affected thereby. (Amendment, approved April 1, 1878; Amendments 1877-8, 79; took effect from passage.)

Officers
liable for
false certifi-
cates, reports
or notices.

SEC. 316. Any officer of a corporation who willfully gives a certificate, or willfully makes an official report, public notice, or entry in any of the records or books of the corporation, concerning the corporation or its business, which is false in any material representation, shall be liable for all the damages resulting therefrom to any person injured thereby; and if two or more officers unite or participate in the commission of any of the acts herein designated, they shall be jointly and severally liable. (Amendment, approved March 30, 1874; Amendments 1873-4, 203; took effect July 1, 1874.)

Meeting by
consent
to be valid.

SEC. 317. When all the stockholders or members of a corporation are present at any meeting, however called or notified, and sign a written consent thereto on the record of such a meeting, the doings of such meeting are as valid as if had at a meeting legally called and noticed.

Proceedings
at meeting
to be bind-
ing.

SEC. 318. The stockholders or members of such corporation, when so assembled, may elect officers to fill all vacancies then existing, and may act upon such other business as might lawfully be transacted at regular meetings of the corporation.

Meetings,
where held.

SEC. 319. The meetings of the stockholders and Board of Directors of a corporation must be held at its office or principal place of business.

When no
provision in
by-laws for
regular
meetings,
special meet-
ings, how
called.

SEC. 320. When no provision is made in the by-laws for regular meetings of the directors and the mode of calling special meetings, all meetings must be called by special notice, in writing, to be given to each director by the Secretary, on the order of the President, or if there be none, on the order of two directors.

Change of
principal
place of
business.

SEC. 321. Every corporation that has been or may be created under the general laws of this State, may change its principal place of business from one place to another in the same county, or from one city or county to another city or county within this State. Before such change is made the consent, in writing, of the holders of two-thirds of the capital stock must be obtained, and filed in the office of the corporation. When such consent is obtained and filed, notice of the intended removal or change must be published at

least once a week for three successive weeks in some newspaper published in the county wherein said principal place of business is situated, if there is one published therein; if not, in a newspaper of an adjoining county, giving the name of the county or city where it is situated, and that to which it is intended to remove it. (New section, approved April 3, 1876; Amendments 1875-6, 73; took effect immediately.)

CHAPTER II.

CORPORATE STOCK.

ARTICLE I.

STOCK AND STOCKHOLDERS.

SECTION 322. Each stockholder of a corporation is individually and personally liable for such proportion of its debts and liabilities as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation. Any creditor of the corporation may institute joint or several actions against any of its stockholders for the proportion of his claim, payable by each, and in such action the Court must ascertain the proportion of the claim or debt for which each defendant is liable, and a several judgment must be rendered against each, in conformity therewith. If any stockholder pays his proportion of any debt due from the corporation, incurred while he was such stockholder, he is relieved from any further personal liability for such debt; and if an action has been brought against him upon such debt, it shall be dismissed as to him, upon his paying the costs, or such proportion thereof as may be properly chargeable against him. The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred; and such liability is not released by any subsequent transfer of stock. The term stockholder, as used in this section, shall apply not only to such persons as appear by the books of the corporation to be

Stockholders
liable
for debts.

Stockhold-
ers liable
for debts.

such, but, also, to every equitable owner of stock, although the same appear on the books in the name of another, and, also, to every person who has advanced the installments or purchase money of stock in the name of a minor, so long as the latter remains a minor; and, also, to every guardian or other trustee who voluntarily invests any trust funds in the stock. Trust funds in the hands of a guardian or trustee shall not be liable under the provisions of this section by reason of any such investment, nor shall the person for whose benefit the investment is made be responsible in respect to the stock, until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment shall continue until that period. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above-mentioned, so as to charge him with any proportion of the debts or liabilities of the corporation; but the pledgor, or person, or estate represented, is to be deemed the stockholder as respects such liability. In corporations having no capital stock, each member is individually and personally liable for his proportion of its debts and liabilities, and similar actions may be brought against him, either alone or jointly with other members, to enforce such liability as by this section may be brought against one or more stockholders, and similar judgments may be rendered. The liability of each stockholder of a corporation formed under the laws of any other State or territory of the United States, or of any foreign country, and doing business within this State, shall be the same as the liability of a stockholder of a corporation created under the Constitution and laws of this State. (Amendment, approved March 15, 1876; Amendments 1875-6, 73; took effect sixtieth day after passage.)

Certificates,
how and
when issued.

SEC. 323. All corporations for profit must issue certificates for stock when fully paid up, signed by the President and Secretary, and may provide, in their by-laws, for issuing certificates prior to the full payment, under such restrictions and for such purposes as their by-laws may provide.

Transfer
of shares.

SEC. 324. Whenever the capital stock of any corporation is divided into shares, and certificates therefor are issued, such shares of stock are personal property and may be trans-

ferred by indorsement by the signature of the proprietor, or his attorney or legal representative, and delivery of the certificate; but such transfer is not valid, except between the parties thereto, until the same is so entered upon the books of the corporation as to show the names of the parties by and to whom transferred, the number or designation of the shares, and the date of the transfer.

SEC. 325. Shares of stock in corporations held or owned by a married woman may be transferred by her, her agent or attorney, without the signature of her husband, in the same manner as if such married woman were a femme-sole. All dividends payable upon any shares of stock of a corporation held by a married woman may be paid to such married woman, her agent or attorney, in the same manner as if she were unmarried, and it is not necessary for her husband to join in a receipt therefor; and any proxy or power given by a married woman touching any shares of stock of any corporation owned by her, is valid and binding without the signature of her husband, the same as if she were unmarried.

Shares held
by married
women, etc.

SEC. 326. When the shares of stock in a corporation are owned by parties residing out of the State, the President, Secretary, or directors of the corporation, before entering any transfer of the shares on its books, or issuing a certificate therefor to the transferee, may require from the attorney or agent of the non-resident owner, or from the person claiming under the transfer, an affidavit or other evidence that the non-resident owner was alive at the date of the transfer, and if such affidavit or other satisfactory evidence be not furnished, may require from the attorney, agent or claimant, a bond of indemnity, with two sureties, satisfactory to the officers of the corporation, or if not so satisfactory, then one approved by a District Judge, or the County Judge of the county in which the principal office of the corporation is situated, conditioned to protect the corporation against any liability to the legal representatives of the owner of the shares, in case of his or her death before the transfer; and if such affidavit or other evidence or bond be not furnished when required, as herein provided, neither the corporation, nor any officer thereof, shall be liable for refusing to enter the transfer on the books of the corporation. (Amendment, approved March 30, 1874; Amendments 1873-4, 205; took effect July 1, 1874.)

Non-resi-
dent stock-
holders.

ARTICLE II.

ASSESSMENTS OF STOCK.

Directors
may levy
assessments.

SECTION 331. The directors of any corporation formed or existing under the laws of this State, after one-fourth of its capital stock has been subscribed, may, for the purpose of paying expenses, conducting business, or paying debts, levy and collect assessments upon the subscribed capital stock thereof, in the manner and form, and to the extent provided herein. (Amendment, approved March 30, 1874; Amendments 1873-4, 206; took effect July 1, 1874.)

Limitation
of assess-
ments.

SEC. 332. No one assessment must exceed ten per cent. of the amount of the capital stock named in the articles of incorporation, except in the cases in this section otherwise provided for, as follows:

1. If the whole capital of a corporation has not been paid up, and the corporation is unable to meet its liabilities or to satisfy the claims of its creditors, the assessment may be for the full amount unpaid upon the capital stock; or if a less amount is sufficient, then it may be for such a percentage as will raise that amount;

2. The directors of railroad corporations may assess the capital stock in installments of not more than ten per cent. per month, unless in the articles of incorporation it is otherwise provided;

3. The directors of fire or marine insurance corporations may assess such a percentage of the capital stock as they deem proper.

Levy of
assessment.

SEC. 333. No assessment must be levied while any portion of a previous one remains unpaid, unless:

1. The power of the corporation has been exercised in accordance with the provisions of this article for the purpose of collecting such previous assessment;

2. The collection of the previous assessment has been enjoined; or,

3. The assessment falls within the provisions of either the first, second, or third subdivision of section three hundred and thirty-two.

What order
shall con-
tain.

SEC. 334. Every order levying an assessment must specify the amount thereof, when, to whom, and where payable; fix a day, subsequent to the full term of publication of the

assessment notice, on which the unpaid assessment shall be delinquent, not less than thirty nor more than sixty days from the time of making the order levying the assessment; and a day for the sale of delinquent stock, not less than fifteen nor more than sixty days from the day the stock is declared delinquent.

SEC. 335. Upon the making of the order, the Secretary Notice of assessment. shall cause to be published a notice thereof, in the following form:

(Name of corporation in full. Location of principal place of business.) Notice is hereby given, that at a meeting of the directors, held on the (date), an assessment of (amount) per share was levied upon the capital stock of the corporation, payable (when, to whom, and where). Any stock upon which this assessment shall remain unpaid on the (day fixed), will be delinquent and advertised for sale at public auction, and, unless payment is made before, will be sold on the (day appointed), to pay the delinquent assessment, together with costs of advertising and expenses of sale.

(Signature of Secretary, with location of office.)

SEC. 336. The notice must be personally served upon each stockholder, or, in lieu of personal service, must be sent Service and publication of notice. through the mail, addressed to each stockholder at his place of residence, if known, and if not known, at the place where the principal office of the corporation is situated, and be published once a week, for four successive weeks, in some newspaper of general circulation and devoted to the publication of general news, published at the place designated in the articles of incorporation as the principal place of business, and also in some newspaper published in the county in which the works of the corporation are situated, if a paper be published therein. If the works of the corporation are not within a State or Territory of the United States, publication in a paper of the place where they are situated is not necessary. If there be no newspaper published at the place designated as the principal place of business of the corporation, then the publication must be made in some other newspaper of the county, if there be one, and if there be none, then in a newspaper published in an adjoining county. (Amend-

ment, approved March 30, 1874; Amendments, 1873-4, 206; took effect July 1, 1874.)

Delinquent
notice.

SEC. 337. If any portion of the assessment mentioned in the notice remains unpaid on the day specified therein for declaring the stock delinquent, the Secretary must, unless otherwise ordered by the Board of Directors, cause to be published in the same papers in which the notice hereinbefore provided for shall have been published, a notice substantially in the following form :

(Name in full. Location of principal place of business.)
Notice.—There is delinquent upon the following described stock, on account of assessment levied on the (date), (and assessments levied previous thereto, if any), the several amounts set opposite the names of the respective shareholders, as follows: (Names, number of certificate, number of shares, amount.) And in accordance with law (and an order of the Board of Directors, made on the [date], if any such order shall have been made), so many shares of each parcel of such stock as may be necessary, will be sold at the (particular place), on the (date), at (the hour), of such day, to pay delinquent assessments thereon, together with costs of advertising and expenses of the sale.

(Name of Secretary, with location of office.)

Contents of
notice.

SEC. 338. The notice must specify every certificate of stock, the number of shares it represents, and the amount due thereon, except where certificates may not have been issued to parties entitled thereto, in which case the number of shares and amount due thereon, together with the fact that the certificates for such shares have not been issued, must be stated.

Publication
of notice.

SEC. 339. The notice, when published in a daily paper, must be published for ten days, excluding Sundays and holidays, previous to the day of sale. When published in a weekly paper, it must be published in each issue for two weeks previous to the day of sale. The first publication of all delinquent sales must be at least fifteen days prior to the day of sale.

Jurisdiction
acquired,
how.

SEC. 340. By the publication of the notice, the corporation acquires jurisdiction to sell and convey a perfect title to all of the stock described in the notice of sale, upon which any portion of the assessment or costs of advertising remains

unpaid at the hour appointed for the sale, but must sell no more of such stock than is necessary to pay the assessments due and costs of sale.

SEC. 341. On the day, at the place, and at the time appointed in the notice of sale, the Secretary must, unless otherwise ordered by the directors, sell or cause to be sold at public auction, to the highest bidder for cash, so many shares of each parcel of the described stock as may be necessary to pay the assessment and charges thereon, according to the terms of sale; if payment is made before the time fixed for sale, the party paying is only required to pay the actual cost of advertising, in addition to the assessment.

Sale to be by
public
auction.

SEC. 342. The person at such sale offering to pay the assessment and costs for the smallest number of shares or fraction of a share is the highest bidder, and the stock purchased must be transferred to him on the stock books of the corporation, on payment of the assessment and costs.

Highest
bidder to be
the pur-
chaser.

SEC. 343. If, at the sale of stock, no bidder offers the amount of the assessments and costs and charges due, the same may be bid in and purchased by the corporation, through the Secretary, President, or any director thereof, at the amount of the assessments, costs, and charges due; and the amount of the assessments, costs, and charges must be credited as paid in full on the books of the corporation, and entry of the transfer of the stock to the corporation must be made on the books thereof. While the stock remains the property of the corporation it is not assessable, nor must any dividends be declared thereon; but all assessments and dividends must be apportioned upon the stock held by the stockholders of the corporation.

In default of
bidders, cor-
poration
may pur-
chase.

SEC. 344. All purchases of its own stock made by any corporation vest the legal title to the same in the corporation; and the stock so purchased is held subject to the control of the stockholders, who may make such disposition of the same as they deem fit, in accordance with the by-laws of the corporation or vote of a majority of all the remaining shares. Whenever any portion of the capital stock of a corporation is held by the corporation by purchase, a majority of the remaining shares is a majority of the stock for all purposes of election or voting on any question at a stockholders' meeting.

Disposition
of stock pur-
chased by
corporation.

Extension
of time of
delinquent
sale.

SEC. 345. The dates fixed in any notice of assessment or notice of delinquent sale, published according to the provisions hereof, may be extended from time to time for not more than thirty days, by order of the directors, entered on the records of the corporation; but no order extending the time for the performance of any act specified in any notice is effectual unless notice of such extension or postponement is appended to and published with the notice to which the order relates.

Assessments
shall not be
invalidated.

SEC. 346. No assessment is invalidated by a failure to make publication of the notices hereinbefore provided for, nor by the non-performance of any act required in order to enforce the payment of the same; but in case of any substantial error or omission in the course of proceedings for collection, all previous proceedings, except the levying of the assessment, are void, and publication must be begun anew.

Action for
recovery of
stock and
limitation
thereof.

SEC. 347. No action must be sustained to recover stock sold for delinquent assessments, upon the ground of irregularity in the assessment, irregularity or defect of the notice of sale, or defect or irregularity in the sale, unless the party seeking to maintain such action first pays or tenders to the corporation, or the party holding the stock sold, the sum for which the same was sold, together with all subsequent assessments which may have been paid thereon and interest on such sums from the time they were paid; and no such action must be sustained unless the same is commenced by the filing of a complaint and the issuing of a summons thereon within six months after such sale was made.

Publication,
how proved.

SEC. 348. The publication of notice required by this article may be proved by the affidavit of the printer, foreman, or principal clerk of the newspaper in which the same was published; and the affidavit of the Secretary or auctioneer is prima facie evidence of the time and place of sale, of the quantity and particular description of the stock sold, and to whom, and for what price, and of the fact of the purchase money being paid. The affidavits must be filed in the office of the corporation, and copies of the same, certified by the Secretary thereof, are prima facie evidence of the facts therein stated. Certificates signed by the Secretary and under the seal of the corporation are prima facie evidence of the

contents thereof. (Amendment, approved March 30, 1874; Amendments 1873-4, 207; took effect July 1, 1874.)

SEC. 349. On the day specified for declaring the stock delinquent, or at any time subsequent thereto and before the sale of the delinquent stock, the Board of Directors may elect to waive further proceedings under this chapter for the collection of delinquent assessments, or any part or portion thereof, and may elect to proceed by action to recover the amount of the assessment and the costs and expenses already incurred, or any part or portion thereof.

Waiver of
sale—action
to recover
assessment.

CHAPTER III.

CORPORATE POWERS.

ARTICLE I.

GENERAL POWERS.

SECTION 354. Every corporation, as such, has power:

Powers of
corpora-
tions.

1. Of succession, by its corporate name, for the period limited; and when no period is limited, perpetually;
2. To sue and be sued, in any Court;
3. To make and use a common seal, and alter the same at pleasure;
4. To purchase, hold, and convey such real and personal estate as the purposes of the corporation may require, not exceeding the amount limited in this part;
5. To appoint such subordinate officers or agents as the business of the corporation may require, and to allow them suitable compensation;
6. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock;
7. To admit stockholders or members, and to sell their stock or shares for the payment of assessments or installments;
8. To enter into any obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.

Limitation
of power.

SEC. 355. In addition to the powers enumerated in the preceding section, and to those expressly given in that title of this part under which it is incorporated, no corporation shall possess or exercise any corporate powers, except such as are necessary to the exercise of the powers so enumerated and given.

Banking
expressly
prohibited.

SEC. 356. No corporation shall create or issue bills, notes, or other evidences of debt, upon loans or otherwise, for circulation as money.

Misnomer
does not
invalidate
instrument

SEC. 357. The misnomer of a corporation in any written instrument does not invalidate the instrument, if it can be reasonably ascertained from it what corporation is intended.

Corporation
to organize
within one
year.

SEC. 358. If a corporation does not organize and commence the transaction of its business or the construction of its works within one year from the date of its incorporation, its corporate powers cease. The due incorporation of any company, claiming in good faith to be a corporation under this part, and doing business as such, or its right to exercise corporate powers, shall not be inquired into, collaterally, in any private suit to which such de facto corporation may be a party; but such inquiry may be had at the suit of the State, on information of the Attorney-General.

Increasing
and dimin-
ishing capi-
tal stock.

SEC. 359. Every corporation may increase or diminish its capital stock, at a meeting called for that purpose by the directors, as follows:

1. Notice of the time and place of the meeting, stating its object and the amount to which it is proposed to increase or diminish the capital stock, must be personally served on each stockholder resident in the State, at his place of residence, if known, and if not known, at the place where the principal office of the corporation is situated, and be published in a newspaper published in the county of such principal place of business once a week for four weeks successively.

2. The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated costs of the works which it may be the purpose of the corporation to construct.

3. At least two-thirds of the entire capital stock must be represented by the vote in favor of the increase or diminution before it can be effected.

4. A certificate must be signed by the Chairman and Sec-

retary of the meeting, and a majority of the directors, showing a compliance with the requirements of this section, the amount to which the capital stock has been increased or diminished, the amount of stock represented at the meeting, and the vote by which the object was accomplished.

5. The certificate must be filed in the office of the County Clerk where the original articles of incorporation were filed, and a certified copy thereof in the office of the Secretary of State, and thereupon the capital stock shall be so increased or diminished.

6. The written assent of the holders of three-fourths of the subscribed capital stock shall be as effectual to authorize the increase or diminution of the capital stock as if a meeting were called and held; and, upon such written assent, the directors may proceed to make the certificate herein provided for. (Amendment, approved March 30, 1874; Amendments 1873-4, 207; took effect July 1, 1874.)

SEC. 360. No corporation shall acquire or hold any more real property than may be reasonably necessary for the transaction of its business, or the construction of its works, except as otherwise specially provided. A corporation may acquire real property, as provided in title seven, part three, Code of Civil Procedure, when needed for any of the uses and purposes mentioned in said title. (Amendment, approved March 30, 1874; Amendments 1873-4, 208; took effect July 1, 1874.)

Acquisition
of real
property.

An Act to authorize corporations to own and improve the lots and houses in which their business is carried on.

[Approved April 1, 1876; 1875-6, 653.]

SECTION 1. By unanimous consent of its members or stockholders, any corporation existing under the laws of this State may acquire and hold the lot and house in which its business is carried on, and may improve the same to any extent required for the convenient transaction of its business.

May hold
lot, etc.

SEC. 2. This Act shall take effect immediately.

Consolidation of mining corporations.

SEC. 361. It shall be lawful for two or more corporations formed, or that may hereafter be formed, under the laws of this State, for mining purposes, which own or possess mining claims or lands adjoining each other, or lying in the same vicinity, to consolidate their capital stock, debts, property, assets, and franchises in such manner and upon such terms as may be agreed upon by the respective Boards of Directors or Trustees of such companies so desiring to consolidate their interests; but no such consolidation shall take place without the written consent of the stockholders representing two-thirds of the capital stock of each company; and no such consolidation shall in any way relieve such companies, or the stockholders thereof, from any and all just liabilities; and in case of such consolidation, due notice of the same shall be given by advertising for one month in at least one newspaper in the county and State where the said mining property is situated, if there be one published therein, and also in one newspaper published in the county, or city and county, where the principal place of business of any of said companies shall be. And when the said consolidation is completed, a certificate thereof, containing the manner and terms of said consolidation, shall be filed in the office of the County Clerk of the county in which the original certificate of incorporation of any of said companies shall be filed, and a copy thereof shall be filed in the office of the Secretary of State. Such certificate shall be signed by a majority of each Board of Trustees or Directors of the original companies; and it shall be their duty to call, within thirty days after the filing of such certificate, and after at least ten days' public notice, a meeting of the stockholders of all of said companies so consolidated, to elect a Board of Trustees or Directors for the consolidated company for the year thence next ensuing. The said certificate shall also contain all the requirements prescribed by section two hundred and ninety of said Civil Code. (New section, approved March 20, 1876; Amendments 1875-6, 75; took effect from passage.)

An Act to add another section to the Civil Code.

[Approved March 20, 1876; Amendments 1875-6, 75.]

[Section one contains the additional section three hundred and sixty-one to the Civil Code above inserted.]

SECTION 2. This Act shall apply to all corporations formed under the laws of this State, whether formed under the said Civil Code, or prior thereto.

SEC. 3. This Act shall take effect from and after its passage.

ARTICLE II.

RECORDS.

SECTION 377. All corporations for profit are required to keep a record of all their business transactions; a journal of all meetings of their directors, members, or stockholders, with the time and place of holding the same, whether regular or special, and if special, its object, how authorized, and the notice thereof given. The record must embrace every act done or ordered to be done; who were present, and who absent; and, if requested by any director, member, or stockholder, the time shall be noted when he entered the meeting or obtained leave of absence therefrom. On a similar request, the ayes and noes must be taken on any proposition, and a record thereof made. On similar request, the protest of any director, member, or stockholder, to any action or proposed action, must be entered in full—all such records to be open to the inspection of any director, member, stockholder, or creditor of the corporation.

Records, of what and how kept.

SEC. 378. In addition to the records required to be kept by the preceding section, corporations for profit must keep a book, to be known as the "Stock and Transfer Book," in which must be kept a record of all stock; the names of the stockholders or members alphabetically arranged; installments paid or unpaid; assessments levied and paid or unpaid; a statement of every alienation, sale, or transfer of stock made, the date thereof, and by and to whom; and all such

Other records to be kept by corporations for profit, and others.

other records as the by-laws prescribe. Corporations for religious and benevolent purposes must provide in their by-laws for such records to be kept as may be necessary. Such stock and transfer book must be kept open to the inspection of any stockholder, member, or creditor.

ARTICLE III.

EXAMINATION OF CORPORATIONS, ETC.

**Examina-
tion into
affairs of cor-
poration by
State officers.** SECTION 382. The Attorney-General or District Attorney, whenever and as often as required by the Governor, must examine into the affairs and condition of any corporation in this State, and report such examination, in writing, together with a detailed statement of facts, to the Governor, who must lay the same before the Legislature; and for that purpose the Attorney-General or District Attorney may administer all necessary oaths to the directors and officers of any corporation, and may examine them on oath in relation to the affairs and condition thereof, and may examine the books, papers, and documents belonging to such corporation, or appertaining to its affairs and condition.

**Examina-
tion made
by the Legis-
lature.** SEC. 383. The Legislature, or either branch thereof, may examine into the affairs and condition of any corporation in this State at all times; and, for that purpose, any committee appointed by the Legislature, or either branch thereof, may administer all necessary oaths to the directors, officers, and stockholders of such corporation, and may examine them on oath in relation to the affairs and condition thereof; and may examine the safes, books, papers, and documents belonging to such corporation, or pertaining to its affairs and condition, and compel the production of all keys, books, papers, and documents by summary process, to be issued on application to any Court of record or any Judge thereof, under such rules and regulations as the Court may prescribe.

**Chapter and
article may
be repealed.** SEC. 384. The Legislature may at any time amend or repeal this part, or any title, chapter, article, or section thereof, and dissolve all corporations created thereunder; but such amendment or repeal does not, nor does the dissolution of any such corporation, take away or impair any remedy given against any such corporation, its stockholders or officers, for any liability which has been previously incurred.

ARTICLE IV.

JUDGMENT AGAINST AND SALE OF CORPORATE PROPERTY.

SECTION 388. For the satisfaction of any judgment against a corporation authorized to receive tolls, its franchise and all the rights and privileges thereof may be levied upon and sold under execution, in the same manner and with like effect as any other property. (Amendment, approved March 30, 1874; Amendments 1873-4, 208; took effect July 1, 1874.)

Franchise
may be sold
under exe-
cution.

SEC. 389. The purchaser at the sale must receive a certificate of purchase of the franchise, and be immediately let into the possession of all property necessary for the exercise of the powers and the receipt of the proceeds thereof, and must thereafter conduct the business of such corporation, with all its powers and privileges, and subject to all its liabilities, until the redemption of the same, as hereinafter provided.

Purchaser to
transact busi-
ness of
corporation.

SEC. 390. The purchaser or his assignee is entitled to recover any penalties imposed by law and recoverable by the corporation for an injury to the franchise or property thereof, or for any damages or other cause, occurring during the time he holds the same, and may use the name of the corporation for the purpose of any action necessary to recover the same. A recovery for damages or any penalties thus had is a bar to any subsequent action by or on behalf of the corporation for the same.

Purchaser
may recover
penalties,
etc.

SEC. 391. The corporation whose franchise is sold, as in this article provided, in all other respects retains the same powers, is bound to the discharge of the same duties, and is liable to the same penalties and forfeitures, as before such sale.

Corporation
to retain
powers after
sale.

SEC. 392. The corporation may, at any time within one year after such sale, redeem the franchise, by paying, or tendering to the purchaser thereof, the sum paid therefor, with ten per cent. interest thereon, but without any allowance for the toll which he may in the meantime have received; and upon such payment or tender the franchise and all the rights and privileges thereof revert and belong to the corporation, as if no such sale had been had.

Redemption
of franchise.

SEC. 393. The sale of any franchise under execution must be made in the county in which the corporation has its prin-

Sale, under
execution,
where.

cipal place of business, or in which the property, or some portion thereof, upon which the taxes are paid, is situated. (Amendment, approved March 30, 1874; Amendments, 1873-4, 209; took effect July 1, 1874.)

CHAPTER IV.

EXTENSION AND DISSOLUTION OF CORPORATIONS.

Proceedings
to disincor-
porate.

SECTION 399. The dissolution of corporations is provided for :

1. If involuntary—in chapter five of title ten, part two, of the Code of Civil Procedure;
2. If voluntary—in title six, part three, of the Code of Civil Procedure.

On dissolu-
tion, direct-
ors to be
trustees for
creditors.

SEC. 400. Unless other persons are appointed by the Court, the directors or managers of the affairs of such corporation at the time of its dissolution are trustees of the creditors and stockholders or members of the corporation dissolved, and have full power to settle the affairs of the corporation.

May extend
term of
existence.

SEC. 401. Every corporation formed for a period less than fifty years may, at any time prior to the expiration of the term of its corporate existence, extend such term to a period not exceeding fifty years from its formation. Such extension may be made at any meeting of the stockholders or members, called by the directors expressly for considering the subject, if voted by stockholders representing two-thirds of the capital stock; or by two-thirds of the members; or may be made upon the written assent of that number of stockholders or members. A certificate of the proceedings of the meeting upon such vote, or upon such assent, shall be signed by the Chairman and Secretary of the meeting and a majority of the directors, and be filed in the office of the County Clerk, where the original articles of incorporation were filed, and a certified copy thereof in the office of the Secretary of State, and thereupon the term of the corporation shall be extended for the specified period. (Amendment, approved March 30, 1874; Amendments, 1873-4, 209; took effect July 1, 1874.)

SEC. 403. The provisions of this title are applicable to

every corporation, unless such corporation is excepted from its operation, or unless a special provision is made in relation thereto, inconsistent with some provision in this title, in which case the special provision prevails.

Title one to apply to all corporations, with certain exceptions.

An Act in relation to foreign corporations.

[Approved April 1, 1872; 1871-2, 826.]

SECTION 1. Every corporation heretofore created by the laws of any other State and doing business in this State, shall, within one hundred and twenty days after the passage of this Act, and any corporation hereafter created and doing business in this State, within sixty days from the time of commencing to do business in this State, designate some person residing in the county in which the principal place of business of said corporation in this State is, upon whom process issued by authority of or under any law of this State may be served, and within the time aforesaid shall file such designation in the office of the Secretary of State; and a copy of such designation, duly certified by said officer, shall be evidence of such appointment; and it shall be lawful to serve on such person so designated any process issued as aforesaid. Such service shall be made on such person in such manner as shall be prescribed in case of service required to be made on foreign corporations, and such service shall be deemed to be a valid service thereof.

Foreign corporations to designate person upon whom process may be served.

SEC. 2. Every corporation created by the laws of any other State, which shall fail to comply with the provisions of the first section of this statute, shall be denied the benefit of the statutes of this State limiting the time for the commencement of civil actions.

Penalty for failure to designate.

SEC. 3. Every corporation created by the laws of any other State, which shall comply with the provisions of the first section of this statute, shall be entitled to the benefit of the statutes of this State limiting the time for the commencement of civil actions.

Privileges on compliance.

TITLE III.

RAILROAD CORPORATIONS.

CHAPTER I.

OFFICERS AND CORPORATE STOCK.

Directors to
be elected,
when.

SEC. 454. Directors of railroad corporations may be elected at a meeting of the stockholders other than the annual meeting, as a majority of the fixed capital stock may determine, or as the by-laws may provide; notice thereof to be given as provided for notices of meetings to adopt by-laws, in article two, chapter one, title one, of this part.

Additional
provisions in
assessment
and transfer
of stock.

SEC. 455. No stock in any railroad corporation is transferable until all the previous calls or installments thereon have been fully paid in; nor is any such transfer valid, except as between the parties thereto, unless at least twenty per cent. has been paid thereon and certificates issued therefor, and the transfer approved by the Board of Directors.

Corporations
may borrow
money and
issue bonds.

SEC. 456. Railroad corporations may borrow on the credit of the corporation and under such regulations and restrictions as the directors thereof, by unanimous concurrence, may impose, such sums of money as may be necessary for constructing and completing their railroad, and may issue and dispose of bonds or promissory notes therefor, in denominations of not less than five hundred dollars, and at a rate of interest not exceeding ten per cent. per annum; and may also issue bonds or promissory notes, of the same denomination and rate of interest, in payment of any debts or contracts for constructing and completing their road, with its equipments and all else relative thereto. The amount of bonds or promissory notes issued for such purposes must not exceed, in all, the amount of their capital stock; and to secure the payment of such bonds or notes, they may mortgage their corporate property and franchise.

To provide
sinking fund
to pay bonds.

SEC. 457 The directors must provide a sinking fund, to be especially applied to the redemption of such bonds on or before their maturity, and may also confer on any holder of any bond or note so issued, for money borrowed or in payment of any debt or contract for the construction and equip-

ment of such road, the right to convert the principal due or owing thereon into stock of such corporation, at any time within eight years from the date of such bonds, under such regulations as the directors may adopt.

SEC. 458. When, at any time after filing the articles of incorporation, it is ascertained that the capital stock therein set out is either more or less than actually required for constructing, equipping, operating, and maintaining the road, by a two-third vote of the stockholders the capital stock must be fixed, and a certificate thereof, and of the proceedings had to fix the same, must be made out and filed in the office of the Secretary of State.

Capital stock
to be fixed.

SEC. 459. Within thirty days after the payment of the last installment of the fixed capital stock of any railroad corporation organized under this title and part, the President and Secretary, and a majority of the directors thereof, must make, subscribe, and file in the office of the Secretary of State a certificate stating the amount of the fixed capital stock, and that the whole thereof has been paid in. The certificate must be verified by the affidavit of the President and Secretary.

Certificate
of payment
of fixed capital
stock.

CHAPTER II.

ENUMERATION OF POWERS.

SECTION 465. Every railroad corporation has power:

Enumera-
tion of
powers.

1. To cause such examination and surveys to be made as may be necessary to the selection of the most advantageous route for the railroad; and for such purposes their officers, agents, and employés may enter upon the lands or waters of any person, subject to liability for all damages which they do thereto.

2. To receive, hold, take and convey, by deed or otherwise, as a natural person, such voluntary grants and donations of real estate and other property which may be made to it to aid and encourage the construction, maintenance, and accommodation of such railroad.

May accept
real estate.

3. To purchase, or by voluntary grants or donations to receive, enter, take possession of, hold, and use all such real estate and other property as may be absolutely necessary for

May acquire
real estate.

the construction and maintenance of such railroad, and for all stations, depots and other purposes necessary to successfully work and conduct the business of the road.

Lay out
road, how
wide.

4. To lay out its road, not exceeding nine rods wide, and to construct and maintain the same, with a single or double track, and with such appendages and adjuncts as may be necessary for the convenient use of the same.

Where may
construct
road.

5. To construct their road across, along, or upon any stream of water, water-course, roadstead, bay, navigable stream, street, avenue, or highway, or across any railway, canal, ditch, or flume, which the route of its road intersects, crosses, or runs along, in such manner as to afford security for life and property; but the corporation shall restore the stream or water-course, road, street, avenue, highway, railroad, canal, ditch, or flume, thus intersected, to its former state of usefulness, as near as may be, or so that the railroad shall not unnecessarily impair its usefulness or injure its franchise.

May cross
or connect
roads.

6. To cross, intersect, join, or unite its railroad with any other railroad, either before or after construction, at any point upon its route, and upon the grounds of such other railroad corporation, with the necessary turnouts, sidings, and switches, and other conveniences in furtherance of the objects of its connections; and every corporation whose railroad is, or shall be hereafter, intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant facilities therefor; and if the two corporations can not agree upon the amount of compensation to be paid therefor, or the points or the manner of such crossings, intersections, and connections, the same shall be ascertained and determined as is provided in title seven, part three, Code of Civil Procedure.

May purchase land,
timber,
stone,
gravel, etc.

7. To purchase lands, timber, stone, gravel, or other materials, to be used in the construction and maintenance of its road, and all necessary appendages and adjuncts, or acquire them in a manner provided in title seven, part three, Code of Civil Procedure, for the condemnation of lands; and to change the line of its road, in whole or in part, whenever a majority of the directors so determine, as is provided hereinafter; but no such change must vary the general route of such road, as contemplated in its articles of incorporation.

8. To carry persons and property on their railroad, and receive tolls or compensation therefor.

Carry persons and freight.

9. To erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of their passengers, freight, and business.

Erect necessary buildings.

10. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor within the limits prescribed by law, and subject to alteration, change, or amendment by the Legislature at any time.

Regulate time and freights, subject to legislation.

11. To regulate the force and speed of their locomotives, cars, trains, or other machinery used and employed on their road, and to establish, execute, and enforce all needful and proper rules and regulations for the management of its business transactions usual and proper for railroad corporations.

Regulate force and speed.

SEC. 466. Every railroad corporation in this State must, within a reasonable time after its road is finally located, cause to be made a map and profile thereof, and of the land acquired for the use thereof, and the boundaries of the several counties through which the road may run, and file the same in the office of the Secretary of State; and also like maps of the parts thereof located in different counties, and file the same in the office of the Clerk of the county in which such parts of the road are, there to remain of record forever. The maps and profiles must be certified by the Chief Engineer, the acting President and Secretary of such company, and copies of the same, so certified and filed, be kept in the office of the Secretary of the corporation, subject to examination by all parties interested.

Map and profile to be filed.

SEC. 467. If, at any time after the location of the line of the railroad and the filing of the maps and profiles thereof, as provided in the preceding section, it appears that the location can be improved, the directors may, as provided in subdivision seven, section four hundred and sixty-five, alter or change the same, and cause new maps and profiles to be filed, showing such changes, in the same offices where the originals are of file, and may proceed, in the same manner as the original location was acquired, to acquire and take possession of such new line, and must sell or relinquish the

May change line of road.

lands owned by them for the original location, within five years after such change. No new location, as herein provided, must be so run as to avoid any points named in their articles of incorporation.

Forfeiture
of franchise.

SEC. 468. Every railroad corporation must, within two years after filing its original articles of incorporation, begin the construction of its road, and must every year thereafter complete and put in full operation at least five miles of its road, until the same is fully completed; and upon its failure so to do, for the period of one year, its right to extend its road beyond the point then completed is forfeited.

Crossings
and inter-
sections.

SEC. 469. Whenever the track of one railroad intersects or crosses the track of another railroad, whether the same be a street railroad, wholly within the limits of a city or town, or other railroad, the rails of either or each road must be so cut and adjusted as to permit the passage of the cars on each road with as little obstruction as possible; and, in case the persons or corporations owning the railroads cannot agree as to the compensation to be made for cutting and adjusting the rails, the condemnation of the right of way over the one for the use of the other road may be had in proceedings under title seven, part three, Code of Civil Procedure, and the damages assessed and the right of way granted as in other cases.

Use of
streets,
alleys, or
water, in
cities or
towns.

SEC. 470. No railroad corporation must use any street, alley, or highway, or any of the land or water within any incorporated city or town, unless the right to so use the same is granted by a two-third vote of the town or city authority from which the right must emanate.

When cross-
ing railroads
or highways,
how other
lands are
acquired.

SEC. 472. Whenever the track of such railroad crosses a railroad or highway, such railroad or highway may be carried under, over, or on a level with the track, as may be most expedient; and in cases where an embankment or cutting necessitates a change in the line of such railroad or highway, the corporation may take such additional lands and material as are necessary for the construction of such road or highway on such new line. If such other necessary lands cannot be had otherwise, they may be condemned as provided in title seven, part three, Code of Civil Procedure; and when compensation is made therefor, the same becomes the property of the corporation.

SEC. 473. Two or more railroad corporations may consol-

idate their capital stock, debts, property, assets, and franchises in such manner as may be agreed upon by their respective Boards of Directors. No such amalgamation or consolidation must take place without the written consent of the holders of three-fourths in value of all the stock of each corporation; and no such amalgamation or consolidation must in any way relieve such corporation or the stockholders thereof from any and all just liabilities. In case of such amalgamation or consolidation, due notice of the same must be given, by advertisement for one month in at least one newspaper in each county, if there be one published therein, into or through which such roads run, and also for the same length of time in one paper published in Sacramento and in two papers published in San Francisco; and when the consolidation and amalgamation is completed, a copy of the new articles of incorporation must be filed in the office of the Secretary of State.

Corporations
may con-
solidate.

SEC. 474. There is granted to every railroad corporation the right of way for the location, construction, and maintenance of their necessary works, and for every necessary adjunct thereto, over any swamp, overflowed, or other public lands of the State not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts, or for the protection thereof, not in any case to exceed two hundred feet in width.

State lands
granted for
use of cor-
porations.

SEC. 475. The grants mentioned in the preceding section do not apply to public lands of the State within the corporate limits of towns and cities, or within three miles thereof.

Grant not
to embrace
town lots.

SEC. 476. The right to take from any of the lands belonging to the State, adjacent to the works of the corporation, all materials, such as wood, stone, and earth, naturally appurtenant thereto, which may be necessary and convenient for the original construction of its works and adjuncts, is granted to such corporations.

Wood, stone,
and earth
may be
taken from
State lands.

SEC. 477. If any corporation receiving State lands or appurtenances thereunder is dissolved, ceases to exist, is discontinued, or the route or line of its works is so changed as not to cover or cross the lands selected, or the use of the lands selected is abandoned, such selected lands revert, and the title thereto is reinvested in the State or its grantees, free from all such uses.

Lands to
revert to
State, when.

Selections
made, how
proved and
certified to.

SEC. 478. When any selection of the right of way, or land for an adjunct to the works of a railroad corporation, is made by any corporation, the Secretary thereof must transmit to the Surveyor-General, Controller of State, and Recorder of the county in which the selected lands are situate, a plat of the lands so selected, giving the extent thereof and uses for which the same is claimed or desired, duly verified to be correct; and, if approved, the Surveyor-General must so indorse the plat, and issue to the corporation a permit to use the same, unless, on petition properly presented to the Court, a review is had and such use prohibited.

CHAPTER III.

BUSINESS, HOW CONDUCTED.

Checks to be
affixed to all
baggage.

SECTION 479. A check must be affixed to every package or parcel of baggage when taken for transportation by any agent or employé of such railroad corporation, and a duplicate thereof given to the passenger or person delivering the same in his behalf; and if such check is refused on demand, the railroad corporation must pay to such passenger the sum of twenty dollars, to be recovered in an action for damages; and no fare or toll must be collected or received from such passenger, and if such passenger has paid his fare, the same must be returned by the conductor in charge of the train; and on producing the check, if his baggage is not delivered to him by the agent or employé of the railroad corporation, he may recover the value thereof from the corporation.

Annual
report to be
verified.

*SEC. 480. Every railroad corporation must make an annual report to the Secretary of State, or other officer designated by law, of its operations for each year, ending on the thirty-first day of December, verified by the oaths of the President or acting Superintendent of operations, the Secretary, and Treasurer of such corporation, and file it in the office of the Secretary of State, or such other designated officer, by the twentieth day of February, which must state:

1. The capital stock, and the amount thereof actually paid in;

* Virtually repealed by provisions of section seven of chapter one of Act relative to Commissioner of Transportation, approved April 1, 1878 (Statutes 1877-8, 970).

2. The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines and cars, respectively;

3. The amount and nature of its indebtedness, and the amount due the corporation;

4. The amount received from the transportation of passengers, property, mails, and express matter, and from other sources;

5. The amount of freight, specifying the quantity in tons;

6. The amount paid for repairs of engines, cars, buildings, and other expenses, in gross, showing the current expenses of running such road:

7. The number and amount of dividends, and when paid;

8. The number of engine houses and shops, of engines and cars, and their character.

SEC. 481. Every such corporation must start and run their cars, for the transportation of persons and property, at such regular times as they shall fix by public notice, and must furnish sufficient accommodations for the transportation of all such passengers and property as, within a reasonable time previous thereto, offer or is offered for transportation, at the place of starting, at the junction of other railroads, and at siding and stopping places established for receiving and discharging way passengers and freight; and must take, transport, and discharge such passengers and property at, from, and to such places, on the due payment of tolls, freight, or fare therefor.

SEC. 482. In case of refusal by such corporation or their agents so to take and transport any passengers or property, or to deliver the same, at the regular appointed places, such corporation must pay to the party aggrieved all damages which are sustained thereby, with costs of suit.

SEC. 483. Every railroad corporation must furnish, on the inside of its passenger cars, sufficient room and accommodations for all passengers to whom tickets are sold for any one trip, and for all persons presenting tickets entitling them to travel thereon; and when fare is taken for transporting passengers on any baggage, wood, gravel, or freight car, the same care must be taken and the same responsibility is assumed by the corporation as for passengers on passenger cars.

SEC. 484. Every railroad corporation must have printed and conspicuously posted on the inside of its passenger cars

Duties of corporation.

Corporation to pay damages for refusal.

Inside room for passengers, etc.; passengers on freight cars.

Printed rules and regulations.

its rules and regulations regarding fare and conduct of its passengers; and in case any passenger is injured on or from the platform of a car, or on any baggage, wood, gravel, or freight car, in violation of such printed regulations, or in violation of positive verbal instructions or injunctions given to such passenger in person by any officer of the train, the corporation is not responsible for damages for such injuries, unless the corporation failed to comply with the provisions of the preceding section.

Fences—
damages.

SEC. 485. Railroad corporations must make and maintain a good and sufficient fence on either or both sides of their track and property. In case they do not make and maintain such fence, if their engine or cars shall kill or maim any cattle or other domestic animals upon their line of road, which passes through or along the property of the owner thereof, they must pay to the owner of such cattle or other domestic animals a fair market price for the same, unless it occurred through the neglect or fault of the owner of the animal so killed or maimed. Railroad corporations paying to the owner of the land through or along which their road is located an agreed price for making and maintaining such fence, or paying the cost of such fence with the award of damages allowed for the right of way for such railroad, are relieved and exonerated from all claims for damages arising out of the killing or maiming any animals of persons who thus fail to construct and maintain such fence; and the owners of such animals are responsible for any damage or loss which may accrue to such corporation from such animals being upon their railroad track, resulting from the non-construction of such fence, unless it is shown that such loss or damage occurred through the negligence or fault of the corporation, its officers, agents, or employés.

Bell and
other regu-
lations of
trains.

SEC. 486. A bell, of at least twenty pounds weight, must be placed on each locomotive engine, and be rung at a distance of at least eighty rods from the place where the railroad crosses any street, road, or highway, and be kept ringing until it has crossed such street, road, or highway; or a steam whistle must be attached, and be sounded, except in cities, at the like distance, and be kept sounding at intervals until it has crossed the same, under a penalty of one hundred dollars for every neglect, to be paid by the corporation operating the railroad, which may be recovered in an action

prosecuted by the District Attorney of the proper county, for the use of the State. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train, or cars, when the provisions of this section are not complied with.

SEC. 487. If any passenger refuses to pay his fare, or to exhibit or surrender his ticket, when reasonably requested so to do, the conductor and employés of the corporation may put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, on stopping the train. Passenger refusing to pay fare.

SEC. 488. Every conductor, baggage-master, engineer, brakeman, or other employé of any railroad corporation, employed on a passenger train or at stations for passengers, must wear upon his hat or cap, or in some conspicuous place on the breast of his coat, a badge, indicating his office or station, and the initial letters of the name of the corporation by which he is employed. No collector or conductor, without such badge, is authorized to demand or to receive from any passenger any fare, toll, or ticket, or exercise any of the powers of his office or station; and no other officer or employé, without such badge, has any authority to meddle or interfere with any passenger or property. Officers to wear badge.

*SEC. 489. All railroad corporations must fix and publish their rates of charges for freightage and fares from one depot to another, on their various lines of road in this State, graduated as follows: Rates of charges.

1. One rate of charges per mile for a distance of one hundred miles or over;
2. One rate for a distance of seventy-five and less than one hundred miles, charging not exceeding ten per cent. per mile more than the first rate;
3. One rate for a distance of fifty and less than seventy-five miles, charging not exceeding fifteen per cent. per mile more than the first rate;
4. One rate for a distance of twenty-five and less than fifty miles, charging not exceeding twenty per cent. per mile more than the first rate;
5. One rate for a distance not exceeding twenty-five miles,

*Compare section six, of chapter one, of Act relative to Commissioner of Transportation, approved April 1, 1878. (Statutes 1877-8, 974.)

charging not exceeding twenty-five per cent. per mile more than the first rate.

But in no case, nor in any class of charges hereinbefore named, shall any railroad corporation charge or receive more than ten cents per mile for each passenger, nor fifteen cents per mile for each ton of freight transported on its road. For every transgression of these limitations the corporation is liable, to the party suffering thereby, treble the entire amount of fare or freightage so charged to such party. In no case is the corporation required to receive less than twenty-five cents for any one lot of freight for any distance.

Passenger tickets, how issued, and to be good for six months.

SEC. 490. Every railroad corporation must provide, and, on being tendered the fare therefor fixed as provided in the preceding section, furnish to every person desiring a passage on their passenger cars a ticket which entitles the purchaser to a ride, and to the accommodations provided on their cars, from the depot or station where the same is purchased to any other depot or station on the line of their road. Every such ticket entitles the holder thereof to ride on their passenger cars to the station or depot of destination, or any intermediate station, and from any intermediate station to the depot of destination designated in the ticket, at any time within six months thereafter. Any corporation failing so to provide and furnish tickets, or refusing the passage which the same calls for when sold, must pay to the person so refused the sum of two hundred dollars.

Character of iron rail to be used.

SEC. 491. All railroads, other than street railroads and those used exclusively for carrying freight or for mining purposes, built by corporations organized under this chapter, must be constructed of the best quality of iron or steel rails, known as the T or H rail, or other pattern of equal utility. (Amendment, approved March 30, 1874; Amendments 1873-4, 212; took effect July 1, 1874.)

TITLE VII.

TELEGRAPH CORPORATIONS.

May use right of way along waters, roads, and highways.

SECTION 536. Telegraph corporations may construct lines of telegraph along and upon any public road or highway, along or across any of the waters or lands within this State,

and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway, or interrupt the navigation of the waters.

SEC. 537. Any person who injures or destroys, through want of proper care, any necessary or useful fixture of any telegraph corporation, is liable to the corporation for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures, or destroys the subaqueous cable of a telegraph corporation, subjects its owner to the damages hereinbefore specified.

Persons
liable for
damages for
injuring
telegraph
property.

SEC. 538. Any person who willfully and maliciously does any injury to any telegraph property mentioned in the preceding section is liable to the corporation for one hundred times the amount of actual damages sustained thereby, to be recovered in any Court of competent jurisdiction.

Party guilty
of willful
and mal-
icious injury,
liable to one
hundred
times actual
damages.

SEC. 539. No telegraph corporation can recover damages for the breaking or injury of any subaqueous telegraph cable, unless such corporation has previously erected, on either bank of the waters under which the cable is placed, a monument, indicating the place where the cable lies, and publishes for one month in some newspaper most likely to give notice to navigators a notice giving a description and the purpose of the monuments, and the general course, landings, and termini of the cable.

Conditions
on which
damage to
subaqueous
cable may be
recovered.

SEC. 540. Any telegraph corporation may at any time, with the consent of the persons holding two-thirds of the issued stock of the corporation, sell, lease, assign, transfer, or convey any rights, privileges, franchises, or property of the corporation, except its corporate franchise.

May dispose
of certain
rights.

PART III.

PERSONAL MOVABLE PROPERTY.

TITLE I.

PERSONAL PROPERTY IN GENERAL.

By what law governed. SECTION 946. If there is no law to the contrary in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile. (Reënactment, approved March 9, 1876; Amendments 1875-6, 1878; took effect sixtieth day after passage.)

TITLE II.

PARTICULAR KINDS OF PERSONAL PROPERTY.

ARTICLE I.

GENERAL PROVISIONS.

Ship, shipping terms defined. SECTION 960. The term ship, or shipping, when used in this Code, includes steamboats, sailing vessels, canal boats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons. (Amendment, approved March 30, 1874; Amendments 1873-4, 224; took effect July 1, 1874.)

Appurtenances and equipments. SEC. 961. All things, belonging to the owners, which are on board a ship, and are connected with its proper use, for the objects of the voyage and adventure in which the ship is engaged, are deemed its appurtenances.

Foreign and domestic navigation SEC. 962. Ships are engaged either in foreign or domestic navigation, or in the fisheries. Ships are engaged in foreign navigation when passing to or from a foreign country; and in domestic navigation, when passing from place to place within the United States.

SEC. 963. A ship in the port of a State to which it belongs is called a domestic ship; in another port it is called a foreign ship. Foreign and domestic ships distinguished.

SEC. 964. If a ship belongs to several persons, not partners, and they differ as to its use or repair, the controversy may be determined by any Court of competent jurisdiction. Several owners.

SEC. 965. If the owner of a ship commits its possession and navigation to another, that other, and not the owner, is responsible for its repairs and supplies. Owner for voyage.

SEC. 966. The registry, enrollment, and license of ships are regulated by Acts of Congress. Registry, etc.

ARTICLE II.

RULES OF NAVIGATION.

SECTION 970. In the case of ships meeting, the following rules must be observed, in addition to those prescribed by that part of the Political Code which relates to navigation: Collisions

1. Whenever any ship, whether a steamer or sailing ship, proceeding in one direction, meets another ship, whether a steamer or sailing ship, proceeding in another direction, so that if both ships were to continue their respective courses they would pass so near as to involve the risk of a collision, the helms of both ships must be put to port so as to pass on the port side of each other; and this rule applies to all steamers and all sailing ships, whether on the port or starboard tack, and whether close-hauled or not, except where the circumstances of the case are such as to render a departure from the rule necessary in order to avoid immediate danger, and subject, also, to a due regard to the dangers of navigation, and, as regards sailing ships on the starboard tack close-hauled, to the keeping such ships under command. Rules as to ships meeting each other.

3. A steamer navigating a narrow channel must, whenever it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of the steamer. Rules for steamers in narrow channels.

4. A steamer when passing another steamer in such channel must always leave the other upon the larboard side. Same.

5. When steamers must inevitably or necessarily cross so near that, by continuing their respective courses, there would Rules for steam vessels on different courses.

be a risk of collision, each vessel must put her helm to port, so as always to pass on the larboard side of each other.

Meeting of
steamers.

6. The rules of this section do not apply to any case for which a different rule is provided by the regulations for the government of pilots of steamers approaching each other within sound of the steam whistle, or by the regulations concerning lights upon steamers, prescribed under authority of the Acts of Congress approved August thirtieth, eighteen hundred and fifty-two, and April twenty-ninth, eighteen hundred and sixty-four.

Collision
from breach
of rules.

SEC. 971. If it appears that a collision was occasioned by failure to observe any rule in the foregoing section, the owner of the ship by which such rule is infringed cannot recover compensation for damages sustained by the ship in such collision, unless it appears that the circumstances of the case made a departure from the rule necessary.

Breaches of
such rules
to imply
willful
default.

SEC. 972. Damage to person or property, arising from the failure of a ship to observe any rule of section nine hundred and seventy, must be deemed to have been occasioned by the willful default of the person in charge of the deck of such ship at the time, unless it appears that the circumstances of the case made a departure from the rule necessary.

Loss, how
apportioned.

SEC. 973. Losses caused by collision are to be borne as follows:

1. If either party was exclusively in fault he must bear his own loss, and compensate the other for any loss he has sustained;

2. If neither was at fault, the loss must be borne by him on whom it falls;

3. If both were in fault, the loss is to be equally divided, unless it appears that there was a great disparity in fault, in which case the loss must be equitably apportioned;

4. If it cannot be ascertained where the fault lies, the loss must be equally divided.

TITLE VI.

WILLS.

CHAPTER I.

EXECUTION AND REVOCATION OF WILLS.

SECTION 1275. A testamentary disposition may be made to any person capable by law of taking the property so disposed of, except corporations other than those formed for scientific, literary, or solely educational purposes, cannot take under a will, unless expressly authorized by statute. (Amendment, approved January 29, 1874; Amendments 1873-4, 275; took effect from passage.)

Who may
take by will.

PART IV.

OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS.

TITLE III. CHAPTER I.

DEPOSIT IN GENERAL.

ARTICLE I.

NATURE AND CREATION OF DEPOSIT.

SECTION 1813. A deposit may be voluntary or involuntary; and for safe-keeping or for exchange.

Deposit,
kinds of.

SEC. 1814. A voluntary deposit is made by one giving to another, with his consent, the possession of personal property to keep for the benefit of the former, or of a third party. The person giving is called the depositor, and the person receiving the depositary.

Voluntary
deposit, how
made.

SEC. 1815. An involuntary deposit is made:

Involuntary
deposit, how
made.

1. By the accidental leaving or placing of personal property in the possession of any person, without negligence on the part of its owner; or,

2. In case of fire, shipwreck, inundation, insurrection, riot,

or like extraordinary emergencies, by the owner of personal property committing it, out of necessity, to the care of any person.

Involuntary deposit, how made.

SEC. 1816. The person with whom a thing is deposited in the manner described in the last section is bound to take charge of it, if able to do so.

Deposit for safe keeping, what.

SEC. 1817. A deposit for keeping is one in which the depositary is bound to return the identical thing deposited.

Deposit for exchange, what.

SEC. 1818. A deposit for exchange is one in which the depositary is only bound to return a thing corresponding in kind to that which is deposited.

ARTICLE II.

OBLIGATIONS OF THE DEPOSITARY.

Depositary must deliver on demand.

SECTION 1822. A depositary must deliver the thing to the person for whose benefit it was deposited, on demand, whether the deposit was made for a specified time or not, unless he has a lien upon the thing deposited, or has been forbidden or prevented from doing so by the real owner thereof, or by the act of the law, and has given the notice required by section one thousand eight hundred and twenty-five.

No obligation to deliver without demand.

SEC. 1823. A depositary is not bound to deliver a thing deposited without demand, even where the deposit is made for a specified time.

Place of delivery.

SEC. 1824. A depositary must deliver the thing deposited at his residence or place of business, as may be most convenient for him.

Notice to owner of adverse claim.

SEC. 1825. A depositary must give prompt notice to the person for whose benefit the deposit was made, of any proceedings taken adversely to his interest in the thing deposited, which may tend to excuse the depositary from delivering the thing to him.

Notice to owner of thing wrongfully detained.

SEC. 1826. A depositary, who believes that a thing deposited with him is wrongfully detained from its true owner, may give him notice of the deposit; and if within a reasonable time afterwards he does not claim it, and sufficiently establish his right thereto, and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom he gave the notice, upon returning the thing to the depositor, or assuming, in

good faith, a new obligation changing his position, in respect to the thing, to his prejudice.

SEC. 1827. If a thing deposited is owned jointly or in common by persons who cannot agree upon the manner of its delivery, the depositary may deliver to each his proper share thereof, if it can be done without injury to the thing.

Delivery of thing owned jointly, etc.

CHAPTER II.

DEPOSIT FOR KEEPING.

ARTICLE I.

GENERAL PROVISIONS.

SECTION 1833. A depositor must indemnify the depositary:

1. For all damage caused to him by the defects or vices of the thing deposited; and,

Depositor must indemnify depositary.

2. For all expenses necessarily incurred by him about the thing, other than such as are involved in the nature of the undertaking.

SEC. 1834. A depositary of living animals must provide them with suitable food and shelter, and treat them kindly.

Obligation of depositary of animals.

SEC. 1835. A depositary may not use the thing deposited, or permit it to be used, for any purpose, without the consent of the depositor. He may not, if it is purposely fastened by the depositor, open it without the consent of the latter, except in case of necessity.

Obligations as to use of thing deposited.

SEC. 1836. A depositary is liable for any damage happening to the thing deposited, during his wrongful use thereof, unless such damage must inevitably have happened though the property had not been thus used.

Liability for damage arising from wrongful use.

SEC. 1837. If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable, and retain the proceeds as a deposit, giving immediate notice of his proceedings to the depositor.

Sale of thing in danger of perishing.

SEC. 1838. If a thing is lost or injured during its deposit, and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred, so far as he has information concerning them, or willfully misrep-

Injury to, or loss of thing deposited.

resents the circumstances to him, the depositary is presumed to have willfully, or by gross negligence, permitted the loss or injury to occur.

Service
rendered by
depositary

SEC. 1839. So far as any service is rendered by a depositary, or required from him, his duties and liabilities are prescribed by the title on employment and service.

Limitation
of liability
of depositary
for negli-
gence.

SEC. 1840. The liability of a depositary for negligence cannot exceed the amount which he is informed by the depositor, or has reason to suppose, the thing deposited to be worth. (Amendment, approved March 30, 1874; Amendments 1873-4, 244; took effect July 1, 1874.)

ARTICLE II.

GRATUITOUS DEPOSIT.

Gratuitous
deposit,
what.

SECTION 1844. Gratuitous deposit is a deposit for which the depositary receives no consideration beyond the mere possession of the thing deposited.

Nature of
involuntary
deposit.

SEC. 1845. An involuntary deposit is gratuitous, the depositary being entitled to no reward.

Degrees
of care
required of
gratuitous
depositary.

SEC. 1846. A gratuitous depositary must use, at least, slight care for the preservation of the thing deposited.

His duties
cease, when.

SEC. 1847. The duties of a gratuitous depositary cease:

1. Upon his restoring the thing deposited to its owner; or,
 2. Upon his giving reasonable notice to the owner to remove it, and the owner failing to do so within a reasonable time.
- But an involuntary depositary, under subdivision two of section one thousand eight hundred and fifteen, cannot give such notice until the emergency which gave rise to the deposit is past.

ARTICLE III.

STORAGE.

Deposit for
hire.

SECTION 1851. A deposit not gratuitous is called storage. The depositary in such case is called a depositary for hire.

Degree
of care
required of
depositary
for hire.

SEC. 1852. A depositary for hire must use at least ordinary care for the preservation of the thing deposited.

SEC. 1853. In the absence of a different agreement or usage, a depositary for hire is entitled to one week's hire for

the sustenance and shelter of living animals during any fraction of a week, and to a half month's hire for the storage of any other property during any fraction of a half month.

Rate of compensation for fraction of a week, etc.

SEC. 1854. In the absence of an agreement as to the length of time during which a deposit is to continue, it may be terminated by the depositor at any time, and by the depositary upon reasonable notice.

Termination of deposit.

SEC. 1855. Notwithstanding an agreement respecting the length of time during which a deposit is to continue, it may be terminated by the depositor on paying all that would become due to the depositary in case of the deposit so continuing.

Same.

TITLE VII.

CARRIAGE.

CHAPTER I.

CARRIAGE IN GENERAL.

SECTION 2085. The contract of carriage is a contract for the conveyance of property, persons, or messages from one place to another.

Contract of carriage.

SEC. 2086. Carriage is either:

1. Inland; or,
2. Marine.

Different kinds of carriage.

SEC. 2087. Carriers upon the ocean and upon arms of the sea are marine carriers. All others are inland carriers.

Marine and inland carriers, what.

SEC. 2089. Carriers without reward are subject to the same rules as employes without reward, except so far as is otherwise provided by this title.

Obligations of gratuitous carriers.

SEC. 2090. A carrier without reward, who has begun to perform his undertaking, must complete it in like manner as if he had received a reward, unless he restores the person or thing carried to as favorable a position as before he commenced the carriage.

Obligations of gratuitous carrier who has begun to carry.

CHAPTER II.

CARRIAGE OF PERSONS.

ARTICLE I.

GRATUITOUS CARRIAGE OF PERSONS.

Degree of care required. SECTION 2096. A carrier of persons without reward must use ordinary care and diligence for their safe carriage.

ARTICLE II.

CARRIAGE FOR REWARD.

General duties of carrier. SECTION 2100. A carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill.

Vehicles. SEC. 2101. A carrier of persons for reward is bound to provide vehicles safe and fit for the purposes to which they are put, and is not excused for default in this respect by any degree of care.

Not to overload his vehicle. SEC. 2102. A carrier of persons for reward must not overcrowd or overload his vehicle.

Treatment of passengers. SEC. 2103. A carrier of persons for reward must give to passengers all such accommodations as are usual and reasonable, and must treat them with civility, and give them a reasonable degree of attention.

Rate of speed and delays. SEC. 2104. A carrier of persons for reward must travel at a reasonable rate of speed, and without any unreasonable delay, or deviation from his proper route.

CHAPTER III.

CARRIAGE OF PROPERTY.

ARTICLE I.

GENERAL DEFINITIONS.

SECTION 2110. Property carried is called freight; the reward, if any, to be paid for its carriage is called freightage; the person who delivers the freight to the carrier is called the consignor; and the person to whom it is to be delivered is called the consignee.

Freight,
consignor,
etc., what.

ARTICLE II.

OBLIGATIONS OF THE CARRIER.

SECTION 2114. A carrier of property for reward must use at least ordinary care and diligence in the performance of all his duties. A carrier without reward must use at least slight care and diligence.

Care and
diligence
required of
carriers.

SEC. 2115. A carrier must comply with the directions of the consignor or consignee to the same extent that an employé is bound to comply with those of his employer.

Carrier to
obey direc-
tions.

SEC. 2116. When the directions of a consignor and consignee are conflicting, the carrier must comply with those of the consignor in respect to all matters except the delivery of the freight, as to which he must comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee inconsistent with his own.

Conflict of
orders.

SEC. 2117. A marine carrier must not stow freight upon deck during the voyage, except where it is usual to do so, nor make any improper deviation from or delay in the voyage, nor do any other unnecessary act which would avoid an insurance in the usual form upon the freight.

Stowage,
deviation,
etc.

SEC. 2118. A carrier of property must deliver it to the consignee, at the place to which it is addressed, and in the manner usual at that place.

Delivery
of freight.

SEC. 2119. If there is no usage to the contrary at the place of delivery, freight must be delivered as follows:

Place of
delivery.

1. If carried upon a railway owned or managed by the carrier, it may be delivered at the station nearest to the place to which it is addressed.

3. In other cases, it must be delivered to the consignee or his agent, personally, if either can, with reasonable diligence, be found.

Obligations
of carrier
when
freight not
delivered.

SEC. 2120. If, for any reason, a carrier does not deliver freight to the consignee or his agent personally, he must give notice to the consignee of its arrival, and keep the same in safety, upon his responsibility as a warehouseman, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee be unknown to the carrier, he may give the notice by letter dropped in the nearest post-office. (Amendment, approved March 30, 1874; Amendments 1873-4, 247; took effect July 1, 1874.)

Carrier, how
exonerated
from lia-
bility.

SEC. 2121. If a consignee does not accept and remove freight within a reasonable time after the carrier has fulfilled his obligation to deliver, or duly offered to fulfill the same, the carrier may exonerate himself from further liability by placing the freight in a suitable warehouse, on storage, on account of the consignee, and giving notice thereof to him. (Amendment, approved March 30, 1874; Amendments 1873-4, 248; took effect July 1, 1874.)

ARTICLE III.

BILL OF LADING.

Bill of
lading,
what.

SECTION 2126. A bill of lading is an instrument in writing, signed by a carrier or his agent, describing the freight so as to identify it, stating the name of the consignor, the terms of the contract for carriage, and agreeing or directing that the freight be delivered to the order or assigns of a specified person at a specified place.

Bill of
lading,
negotiable.

SEC. 2127. All the title to the freight which the first holder of a bill of lading had when he received it passes to every subsequent indorsee thereof in good faith and for value, in the ordinary course of business, with like effect and in like manner as in the case of a bill of exchange.

Same.

SEC. 2128. When a bill of lading is made to "bearer," or in equivalent terms, a simple transfer thereof, by delivery, conveys the same title as an indorsement.

SEC. 2129. A bill of lading does not alter the rights or obligations of the carrier, as defined in this chapter, unless it is plainly inconsistent therewith.

Effect of bill of lading on rights, etc., of carrier.

SEC. 2130. A carrier must subscribe and deliver to the consignee, on demand, any reasonable number of bills of lading, of the same tenor, expressing truly the original contract for carriage; and if he refuses to do so, the consignee may take the freight from him, and recover from him, besides, all damage thereby occasioned.

Bills of lading to be given to consignee.

SEC. 2131. A carrier is exonerated from liability for freight by delivery thereof, in good faith, to any holder of a bill of lading therefor, properly indorsed, or made in favor of the bearer.

Carrier exonerated by delivery according to bill of lading.

SEC. 2132. When a carrier has given a bill of lading, or other instrument substantially equivalent thereto, he may require its surrender, or a reasonable indemnity against claims thereon, before delivering the freight.

Carrier may demand surrender of bill of lading before delivery.

ARTICLE IV.

FREIGHTAGE.

SECTION 2136. A carrier may require his freightage to be paid upon his receiving the freight; but if he does not demand it then, he cannot until he is ready to deliver the freight to the consignee.

When freightage is to be paid.

SEC. 2137. The consignee of freight is presumed to be liable for the freightage; but if the contract between him and the carrier provides that the consignee shall pay it, and the carrier allows the consignee to take the freight, he cannot afterwards recover the freightage from the consignee.

Consignee, when liable for freightage.

SEC. 2138. The consignee of freight is liable for the freightage, if he accepts the freight with notice of the intention of the consignee that he should pay it.

Consignee, when liable.

SEC. 2139. No freightage can be charged upon the natural increase of freight.

Natural increase of freight.

SEC. 2140. If freightage is apportioned by a bill of lading or other contract made between a consignee and carrier, the carrier is entitled to payment, according to the apportionment, for so much as he delivers.

Apportionment by contract.

SEC. 2141. If a part of the freight is accepted by a consignee, without a specific objection that the rest is not deliv-

Same.

ered, the freightage must be apportioned and paid as to that part, though not apportioned in the original contract.

Apportion-
ment ac-
cording to
distance.

SEC. 2142. If a consignee voluntarily receives freight at a place short of the one appointed for delivery, the carrier is entitled to a just proportion of the freightage, according to distance. If the carrier, being ready and willing, offers to complete the transit, he is entitled to the full freightage. If he does not thus offer completion, and the consignee receives the freight only from necessity, the carrier is not entitled to any freightage.

Freight
carried
further than
agreed, etc.

SEC. 2143. If freight is carried further, or more expeditiously, than was agreed upon by the parties, the carrier is not entitled to additional compensation, and cannot refuse to deliver it, on the demand of the consignee, at the place and time of its arrival.

Carrier's
lien for
freightage.

SEC. 2144. A carrier ~~has~~ a lien for freightage, which is regulated by ~~the~~ title on liens.

CHAPTER V.

COMMON CARRIERS.

ARTICLE I.

COMMON CARRIERS IN GENERAL.

Common
carrier,
what.

SECTION 2168. Every one who offers to the public to carry persons, property, or messages, excepting only telegraphic messages, is a common carrier of whatever he thus offers to carry. (Amendment, approved March 30, 1874; Amendments 1873-4, 249; took effect July 1, 1874.)

Obligation
to accept
freight.

SEC. 2169. A common carrier must, if able to do so, accept and carry whatever is offered to him, at a reasonable time and place, of a kind that he undertakes or is accustomed to carry.

Obligation
not to give
preference.

SEC. 2170. A common carrier must not give preference, in time, price, or otherwise, to one person over another, except where expressly authorized by statute.

What pre-
ference he
must give.

SEC. 2171. A common carrier must always give a preference in time, and may give a preference in price, to the United States and to this State.

SEC. 2172. A common carrier must start at such time and place as he announces to the public, unless detained by accident or the elements, or in order to connect with carriers on other lines of travel. (Amendment, approved March 30, 1874; Amendments 1873-4, 249; took effect July 1, 1874.)

Must start
on time.

SEC. 2173. A common carrier is entitled to a reasonable compensation and no more, which he may require to be paid in advance. If payment thereof is refused, he may refuse to carry.

Compensation.

SEC. 2174. The obligations of a common carrier cannot be limited by general notice on his part, but may be limited by special contract. (Amendment, approved March 30, 1874; Amendments 1873-4, 249; took effect July 1, 1874.)

Obligations,
how limited.

SEC. 2175. A common carrier cannot be exonerated, by any agreement made in anticipation thereof, from liability for the gross negligence, fraud, or willful wrong of himself or his servants.

Certain
agreements
void.

SEC. 2176. A passenger, consignor, or consignee, by accepting a ticket, bill of lading, or written contract for carriage, with a knowledge of its terms, assents to the rate of hire, the time, place, and manner of delivery therein stated; and also to the limitation stated therein upon the amount of the carrier's liability in case property carried in packages, trunks, or boxes, is lost or injured, when the value of such property is not named; and also to the limitation stated therein to the carrier's liability for loss or injury to live animals carried. But his assent to any other modification of the carrier's obligations contained in such instrument can be manifested only by his signature to the same. (Amendment, approved March 30, 1874; Amendments 1873-4, 249; took effect July 1, 1874.)

Written
contract
carrier.

SEC. 2177. A common carrier is not responsible for loss or miscarriage of a letter, or package having the form of a letter, containing money or notes, bills of exchange, or other papers of value, unless he be informed at the time of its receipt of the value of its contents. (New section, approved March 30, 1874; Amendments 1873-4, 250; took effect July 1, 1874.)

When not
liable
for loss.

ARTICLE II.

COMMON CARRIERS OF PERSONS.

- Obligations to carry luggage.** SECTION 2180. A common carrier of persons, unless his vehicle is fitted for the reception of passengers exclusively, must receive and carry a reasonable amount of luggage for each passenger, without charge except for an excess of weight over one hundred pounds to a passenger; *provided*, that if such carrier be a proprietor of a stage line, he may not receive and carry for each passenger by such stage line, without charge, more than sixty pounds of luggage. (Amendment, approved March 9, 1878; Amendments 1877-8, 87; took effect sixtieth day after passage.)
- Luggage, what.** SEC. 2181. Luggage may consist of any articles intended for the use of a passenger while traveling, or for his personal equipment.
- Liability for luggage.** SEC. 2182. The liability of a carrier for luggage received by him with a passenger is the same as that of a common carrier of property.
- Luggage, how carried and delivered.** SEC. 2183. A common carrier must deliver every passenger's luggage, whether within the prescribed weight or not, immediately upon the arrival of the passenger at his destination; and, unless the vehicle would be overcrowded or overloaded thereby, must carry it on the same vehicle by which he carries the passenger to whom it belonged, except that where luggage is transported by rail, it must be checked and carried in a regular baggage car; and whenever passengers neglect or refuse to have their luggage so checked and transported it is carried at their risk. (Amendment, approved March 30, 1874; Amendments 1873-4, 250; took effect July 1, 1874.)
- Obligation to provide vehicles.** SEC. 2184. A common carrier of persons must provide a sufficient number of vehicles to accommodate all the passengers who can be reasonably expected to require carriage at any one time.
- Seats for passengers.** SEC. 2185. A common carrier of persons must provide every passenger with a seat. He must not overload his vehicle by receiving and carrying more passengers than its rated capacity allows.
- Regulations for conduct of business.** SEC. 2186. A common carrier of persons may make rules for the conduct of his business, and may require passengers

to conform to them, if they are lawful, public, uniform in their application, and reasonable.

SEC. 2187. A common carrier may demand the fare of passengers either at starting or at any subsequent time. Fare, when payable.

SEC. 2188. A passenger who refuses to pay his fare or to conform to any lawful regulation of the carrier, may be ejected from the vehicle by the carrier. But this must be done with as little violence as possible, and at any usual stopping place, or near some dwelling house. Ejection of passengers.

*SEC. 2189. A passenger upon a railroad train who has not paid his fare before entering the train, if he has been afforded an opportunity to do so, must, upon demand, pay ten per cent. in addition to the regular rate. Passenger who has not paid fare.

SEC. 2190. After having ejected a passenger, a carrier has no right to require the payment of any part of his fare. Fare not payable after ejection.

SEC. 2191. A common carrier has a lien upon the luggage of a passenger for the payment of such fare as he is entitled to from him. This lien is regulated by the title on liens. Carrier's lien.

ARTICLE III.

COMMON CARRIERS OF PROPERTY.

SECTION 2194. Unless the consignor accompanies the freight and retains exclusive control thereof, an inland common carrier of property is liable, from the time that he accepts until he relieves himself from liability pursuant to sections two thousand one hundred and eighteen to two thousand one hundred and twenty-two, for the loss or injury thereof from any cause whatever, except: Liability of inland carriers for loss.

1. An inherent defect, vice, or weakness, or a spontaneous action, of the property itself;
2. The act of a public enemy of the United States, or of this State;
3. The act of the law; or
4. Any irresistible superhuman cause.

SEC. 2195. A common carrier is liable, even in the cases excepted by the last section, if his ordinary negligence exposes the property to the cause of the loss. When exemptions do not apply.

* Amended by section fifteen, chapter one, of Act approved April 1st, 1878, relative to Commissioner of Transportation.

Liability
for delay.

SEC. 2196. A common carrier is liable for delay only when it is caused by his want of ordinary care and diligence. (Amendment, approved March 30, 1874; Amendments 1873-4, 251; took effect July 1, 1874.)

Limitation
of liability
without
notice.

SEC. 2200. A common carrier of gold, silver, platina, or precious stones, or of imitations thereof, in a manufactured or unmanufactured state; of time pieces of any description; of negotiable paper or other valuable writings; of pictures, glass or chinaware; of statuary, silk, or laces; or of plated ware of any kind, is not liable for more than fifty dollars upon the loss or injury of any one package of such articles, unless he has notice, upon his receipt thereof, by mark upon the package or otherwise, of the nature of the freight; nor is such carrier liable upon any package carried for more than the value of the articles named in the receipt or the bill of lading. (Amendment, approved March 30, 1874; Amendments 1873-4, 251; took effect July 1, 1874.)

Delivery
of freight
beyond
usual route.

SEC. 2201. If a common carrier accepts freight for a place beyond his usual route, he must, unless he stipulates otherwise, deliver it at the end of his route in that direction to some other competent carrier carrying to the place of address, or connected with those who thus carry, and his liability ceases upon making such delivery.

Proof to be
given in
case of loss.

SEC. 2202. If freight addressed to a place beyond the usual route of the common carrier who first received it is lost or injured, he must, within a reasonable time after demand, give satisfactory proof to the consignor that the loss or injury did not occur while it was in his charge, or he will be himself liable therefor.

Carrier's
services,
other than
carriage and
delivery.

SEC. 2203. In respect to any service rendered by a common carrier about freight, other than its carriage and delivery, his rights and obligations are defined by the titles on deposit and service.

Sale of
perishable
property for
freightage.

SEC. 2204. If, from any cause other than want of ordinary care and diligence on his part, a common carrier is unable to deliver perishable property transported by him and collect his charges thereon, he may cause the property to be sold in open market, to satisfy his lien for freightage. (New section, approved March 30, 1874; Amendments 1873-4, 251; took effect July 1, 1874.)

TITLE XI.

INSURANCE.

ARTICLE IV.

INSURABLE INTEREST.

SECTION 2548. A carrier or depositary of any kind has an insurable interest in a thing held by him as such, to the extent of its value.

Interest of
carrier or
depositary.

TITLE XIV.

LIEN.

CHAPTER II.

MORTGAGE.

ARTICLE III.

MORTGAGE OF PERSONAL PROPERTY.

SECTION 2955. Mortgages may be made upon :

1. Locomotives, engines, and other rolling stock of a railroad ;
2. Steamboat machinery, the machinery used by machinists, foundrymen, and mechanics ;
3. Steam engines and boilers ;
10. Vessels of more than five tons burden.

What personal property may be mortgaged.

SEC. 2960. For the purposes of this article, property in transit from the possession of the mortgagee to the county of the residence of the mortgagor, or to a location for use, is, during a reasonable time for such transportation, to be taken as situated in the county in which the mortgagor resides, or where it is intended to be used.

Property in transit, where to be mortgaged.

Property of
a common
carrier,
where to be
recorded.

SEC. 2961. For a like purpose, personal property used in conducting the business of a common carrier is to be taken as situated in the county in which the principal office or place of business of the carrier is located.

CHAPTER VII.

STOPPAGE IN TRANSIT.

When
consignor
may stop
goods.

SECTION 3076. A seller or consignor of property, whose claim for its price or proceeds has not been extinguished, may, upon the insolvency of the buyer or consignee becoming known to him after parting with the property, stop it while on its transit to the buyer or consignee, and resume possession thereof.

What is
insolvency
of
consignee.

SEC. 3077. A person is insolvent, within the meaning of the last section, when he ceases to pay his debts in the manner usual with persons of his business, or when he declares his inability or unwillingness to do so.

Transit,
when ended.

SEC. 3078. The transit of property is at an end when it comes into the possession of the consignee, or into that of his agent, unless such agent is employed merely to forward the property to the consignee.

Stoppage,
how
effected.

SEC. 3079. Stoppage in transit can be effected only by notice to the carrier or depositary of the property, or by taking actual possession thereof.

Effect of
stoppage.

SEC. 3080. Stoppage in transit does not, of itself, rescind a sale, but is a means of enforcing the lien of the seller.

DIVISION FOURTH.

PART I.

RELIEF.

TITLE II.

COMPENSATORY RELIEF.

CHAPTER II.

MEASURE OF DAMAGES.

ARTICLE I.

DAMAGES FOR BREACH OF CONTRACT.

SECTION 3315. The detriment caused by the breach of a carrier's obligation to accept freight, messages, or passengers, is deemed to be the difference between the amount which he had a right to charge for the carriage and the amount which it would be necessary to pay for the same service when it ought to be performed.

Breach of carrier's obligation to receive goods, etc.

SEC. 3316. The detriment caused by the breach of a carrier's obligation to deliver freight, where he has not converted it to his own use, is deemed to be the value thereof at the place and on the day at which it should have been delivered, deducting the freightage to which he would have been entitled if he had completed the delivery.

Breach of carrier's obligation to deliver.

SEC. 3317. The detriment caused by a carrier's delay in the delivery of freight is deemed to be the depreciation in the intrinsic value of the freight during the delay, and also the depreciation, if any, in the market value thereof, otherwise than by reason of a depreciation in its intrinsic value, at the place where it ought to have been delivered, and between the day at which it ought to have been delivered and the day of its actual delivery.

Carrier's delay.

EXTRACTS FROM THE CODE OF CIVIL PROCEDURE.

PRELIMINARY PROVISIONS.

- When this Code takes effect.** SECTION 2. This Code takes effect at twelve o'clock, noon, on the first day of January, eighteen hundred and seventy-three.
- Not retroactive.** SEC. 3. No part of it is retroactive, unless expressly so declared.
- Rule of construction of Code.** SEC. 4. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.
- Provisions similar to existing laws, how construed.** SEC. 5. The provisions of this Code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.
- Actions, etc., not affected by this Code.** SEC. 8. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions, but the proceedings therein must conform to the requirements of this Code as far as applicable.
- Words and phrases.** SEC. 16. Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition.
- Terms defined.** SEC. 17. Words used in this Code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration, and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose;" sig-

nature or subscription includes mark, when the person cannot write, his name being written near it and witnessed by a person who writes his own name as a witness.

The following words also have in this Code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal Property defined.
property.

2. The words "real property" are co-extensive with lands, Real property.
tenements, and hereditaments.

3. The words "personal property" include money, goods, Personal property.
chattels, things in action, and evidences of debt.

4. The word "month" means a calendar month, unless Month.
otherwise expressed.

5. The word "will" includes codicils. Will.

6. The word "writ" signifies an order or precept in writing, Writ.
issued in the name of the people, or of a Court or judicial officer, and the word "process" a writ or summons issued in the course of judicial proceedings.

7. The word "State," when applied to the different parts State.
of the United States, includes the District of Columbia and the Territories, and the words "United States" may include the District and Territories. (Amendment, approved March 24, 1874; Amendments 1873-4, 280; took effect July 1, 1874.)

SEC. 18. No statute, law, or rule is continued in force Statutes, etc., inconsistent with Code repealed.
because it is consistent with the provisions of this Code on the same subject; but in all cases provided for by this Code, all statutes, laws, and rules heretofore in force in this State, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed and abrogated. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued, or any action or proceeding already taken, except as in this Code provided; nor does it affect any private statute not expressly repealed.

PART III.

OF SPECIAL PROCEEDINGS OF A CIVIL NATURE.

TITLE VI.

OF THE VOLUNTARY DISSOLUTION OF CORPORATIONS.

How
dissolved.

SECTION 1227. A corporation may be dissolved by the County Court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose. (Amendment, approved February 25, 1878; Amendments 1877-8, 108; took effect from passage.)

Applica-
tion, what to
contain.

SEC. 1228. The application must be in writing, and must set forth :

1. That at a meeting of the stockholders or members called for that purpose, the dissolution of the corporation was resolved upon by a two-third vote of all the stockholders or members;

2. That all claims and demands against the corporation have been satisfied and discharged.

Applica-
tion, how
signed and
verified.

SEC. 1229. The application must be signed by a majority of the Board of Trustees, Directors, or other officers having the management of the affairs of the corporation, and must be verified in the same manner as a complaint in a civil action.

Filing appli-
cation and
publication
of notice.

SEC. 1230. If the Court is satisfied that the application is in conformity with this title, the Judge thereof must order it to be filed with the Clerk, and that the Clerk give not less than thirty nor more than fifty days' notice of the application, by publication in some newspaper published in the county, and if there are none such, then by advertisements posted up in three of the principal public places in the county. (Amendment, approved February 25, 1878; Amendments 1877-8, 108; took effect from passage.)

Objections
may be filed.

SEC. 1231. At any time before the expiration of the time of publication, any person may file his objections to the application.

Hearing of
application.

SEC. 1232. After the time of publication has expired, the Court may, upon five days' notice to the persons who have

filed objections, or without further notice if no objections have been filed, proceed to hear and determine the application; and if all the statements therein made are shown to be true, he must declare the corporation dissolved. (Amendment, approved February 25, 1878; Amendments 1877-8, 108; took effect from passage.)

SEC. 1233. The application, notices, and proof of publication, objections (if any), and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken as from other judgments of the County Courts. (Amendment, approved February 25, 1878; Amendments 1877-8, 108; took effect from passage.)

Judgment
roll and
appeals.

TITLE VII.

OF EMINENT DOMAIN.

SECTION 1237. Eminent domain is the right of the people or government to take private property for public use. This right may be exercised in the manner provided in this title.

Eminent
domain
defined.

SEC. 1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

Eminent
domain may
be exercised,
on behalf of
what uses.

1. Fortifications, magazines, arsenals, navy yards, navy and army stations, light-houses, range and beacon lights, coast surveys, and all other public uses authorized by the Government of the United States;

2. Public buildings and grounds for the use of the State, and all other public uses authorized by the Legislature of this State;

3. Public buildings and grounds for the use of any county, incorporated city, or city and county, village, town, or school districts, canals, aqueducts, flumes, ditches, or pipes for conducting water for the use of the inhabitants of any county, incorporated city, or city and county, village or town; or for draining any county, incorporated city, or city and county, village, or town; raising the banks of streams, removing obstructions therefrom, and widening, deepening, or straightening their channels; roads, streets, and alleys, and all other

Eminent
domain may
be exercised,
on behalf of
what uses.

public uses for the benefit of any county, incorporated city, or city and county, village, or town, or the inhabitants thereof, which may be authorized by the Legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized;

4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, by-roads, plank and turnpike roads, steam and horse railroads; canals, ditches, flumes, aqueducts, and pipes, for public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable;

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also, outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also, an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines;

6. By-roads leading from highways to residences and farms;

7. Telegraph lines;

8. Sewerage of any incorporated city, or city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any public buildings belonging to the State, or to any college or university. (Amendment, approved March 24, 1874; Amendments 1873-4, 353; took effect July 1, 1874.)

Estates
and rights
subject to
condemna-
tion.

SEC. 1239. The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams, and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine;

2. An easement, when taken for any other use; .

3. The right of entry upon and occupation of lands, and the right to take therefrom such earth, gravel, stones, trees, and timber as may be necessary for some public use. (Amendment, approved March 24, 1874; Amendments 1873-4, 355; took effect July 1, 1874.)

SEC. 1240. The private property which may be taken under this title, includes: Private property defined.

1. All real property belonging to any person;
2. Lands belonging to this State, or to any county, incorporated city, or city and county, village, or town, not appropriated to some public use;
3. Property appropriated to public use; but such property shall not be taken unless for a more necessary public use than that to which it has already been appropriated;
4. Franchises for toll roads, toll-bridges, and ferries, and all other franchises; but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;
5. All rights of way for any and all the purposes mentioned in section one thousand two hundred and thirty-eight, and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed or intersected by any other right of way or improvements or structures thereon. They shall also be subject to a limited use, in common with the owner thereof, when necessary; but such uses, crossings, intersections, and connections shall be made in manner most compatible with the greatest public benefit and least private injury;

6. All classes of private property not enumerated may be taken for public use, when such taking is authorized by law.

SEC. 1241. Before property can be taken, it must appear:

1. That the use to which it is to be applied is a use authorized by law; Facts necessary to be found by Court before condemnation.
2. That the taking is necessary to such use;
3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use.

SEC. 1242. In all cases where land is required for public use, the State, or its agents in charge of such use, may survey and locate the same; but it must be located in the manner which will be most compatible with the greatest public good and the least private injury, and subject to the provisions of section one thousand two hundred and forty-seven. The State, or its agents in charge of such public use, may enter upon the land and make examinations, surveys, and maps thereof, and such entry shall constitute no cause of Parties may make location.

action in favor of the owners of the land, except for injuries resulting from negligence, wantonness, or malice.

Jurisdiction
in District
Court.

SEC. 1243. All proceedings under this title must be brought in the District Court for the county in which the property is situated. They must be commenced by filing a complaint and issuing a summons thereon.

The
complaint
and its
contents.

SEC. 1244. The complaint must contain :

1. The name of the corporation, association, commission, or person in charge of the public use for which the property is sought, who must be styled plaintiffs;

2. The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;

3. A statement of the right of the plaintiff;

4. If a right of way be sought, the complaint must show the location, general route, and termini, and must be accompanied with surveys and maps thereof;

5. A description of each piece of land sought to be taken, and whether the same includes the whole or only a part of an entire parcel or tract.

All parcels lying in the county, and required for the same public use, may be included in the same or separate proceedings, at the option of the plaintiff, but the Court may consolidate or separate them, to suit the convenience of parties.

When application for the condemnation of a right of way for the purposes of sewerage is made on behalf of a settlement, or of an unincorporated village or town, the County Judge alone must be named as plaintiff. (Amendment, approved March 24, 1874; Amendments 1873-4, 355; took effect July 1, 1874.)

Summons,
what to
contain.

SEC. 1245. The Clerk must issue a summons, which must contain the names of the parties, a general description of the whole property, a statement of the public use for which it is sought, and a reference to the complaint for descriptions of the respective parcels, and a notice to the defendants to appear and show cause why the property described should not be condemned as prayed for in the complaint. In all other particulars it must be in the form of a summons in civil actions, and must be served in like manner.

Who may
defend; what
the answer
may show.

SEC. 1246. All persons in occupation of or having or claiming an interest in any of the property described in the complaint, or in the damages for the taking thereof, though

not named, may appear, plead, and defend, each in respect to his own property or interest, or that claimed by him, in like manner as if named in the complaint.

SEC. 1247. The Court shall have power:

1. To regulate and determine the place and manner of making connections and crossings, or of enjoying the common use mentioned in the fifth subdivision of section one thousand two hundred and forty;

Court to have jurisdiction to regulate mode of making crossings or of enjoying a common use.

2. To hear and determine all adverse or conflicting claims to the property sought to be condemned, and to the damages therefor;

3. To determine the respective rights of different parties seeking condemnation of the same property.

SEC. 1248. The Court, jury, or referee must hear such legal testimony as may be offered by any of the parties to the proceedings, and thereupon must ascertain and assess:

Court or jury to assess damages.

1. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein; if it consists of different parcels, the value of each parcel and each estate or interest therein shall be separately assessed;

2. If the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff;

3. Separately, how much the portion not sought to be condemned, and each estate or interest therein, will be benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the damages assessed, under subdivision two, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value;

4. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad, and the cost of cattle-guards where fences may cross the line of such railroad;

5. As far as practicable compensation must be assessed for each source of damage separately.

Date with respect to which compensation shall be assessed, and measure thereof.

SEC. 1249. For the purpose of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the summons, and its actual value, at that date, shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken, but injuriously affected, in all cases where such damages are allowed, as provided in section one thousand two hundred and forty-eight. If an order be made letting the plaintiff into possession, as provided in section one thousand two hundred and fifty-four, the compensation and damages awarded shall draw lawful interest from the date of such order. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or damages.

New proceedings to cure defective title.

SEC. 1250. If the title attempted to be acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the same, as in this title prescribed.

Payment of damages, or deposit of bond therefor.

SEC. 1251. The plaintiff must, within thirty days after final judgment, pay the sum of money assessed; but may, at the time of or before payment, elect to build the fences and cattle-guards; and if he so elect, shall execute to the defendant a bond, with sureties, to be approved by the Court, in double the assessed cost of the same, to build such fences and cattle-guards within eighteen months from the time the railroad is built on the land taken, and if such bond be given, need not pay the cost of such fences and cattle-guard. In an action on such bond, the plaintiff may recover reasonable attorney's fees.

Damages, to whom paid.

SEC. 1252. Payment may be made to the defendants entitled thereto, or the money may be deposited in Court for the defendants, and be distributed to those entitled thereto. If the money be not so paid or deposited, the defendants may have execution as in civil cases; and if the money cannot be made on execution, the Court, upon a showing to that effect, must set aside and annul the entire proceedings, and restore possession of the property to the defendant, if possession has been taken by the plaintiff.

Final order of condemnation, what to contain.

SEC. 1253. When payments have been made and the bond given, if the plaintiff elects to give one, as required by the last two sections, the Court must make a final order of con-

demnation, which must describe the property condemned and the purposes of such condemnation. A copy of the order must be filed in the office of the Recorder of the county, and thereupon the property described therein shall vest in the plaintiff for the purposes therein specified.

SEC. 1254. At any time after trial by jury and judgment entered upon their verdict, or pending an appeal from the judgment to the Supreme Court, whenever the plaintiff shall have paid into Court, for the defendant, the full amount of the judgment, and such further sum as may be required by the Court, or Judge thereof at Chambers, as a fund to pay any further damages and costs that may be recovered in said action, as well as all damages that may be sustained by the defendant, if, for any cause, the property shall not be finally taken for public use. The District Court in which the action was tried, or the Judge thereof at Chambers, may, upon notice of not less than ten days, authorize the plaintiff, if already in possession, to continue therein, and if not, then to take possession of and use the property during the pendency of and until the final conclusion of the litigation, and may, if necessary, stay all actions and proceedings against the plaintiff on account thereof. The defendant, who is entitled to the money paid into Court for him upon any judgment, shall be entitled to demand and receive the same at any time thereafter, upon obtaining an order therefor of the Court, or Judge thereof at Chambers. It shall be the duty of the Court or Judge, upon application being made by such defendant, to order and direct that the money, so paid into Court, for him, be delivered to him upon his filing a satisfaction for the judgment, or upon filing a receipt therefor, and an abandonment of all defenses to the action, except as to the amount of damages that he may be entitled to in the event that a new trial shall be granted. A payment to a defendant, as aforesaid, shall be held to be an abandonment, by such defendant, of all defenses interposed by him, excepting his claim for further compensation. In ascertaining the amount to be paid into Court, the Court, or Judge thereof at Chambers, shall take care that the same be sufficient and adequate. The payment of the money into Court, as hereinbefore provided for, shall not discharge the plaintiff from liability to keep the said fund full and without diminution; but such money shall be and remain, as to all

Putting
plaintiff in
possession.

Putting
plaintiff in
possession.

accidents, defalcations, or other contingencies (as between the parties to the proceedings), at the risk of the plaintiff, and shall so remain until the amount of the compensation or damages is finally settled by judicial determination, and until the Court awards the money, or such part thereof as shall be determined upon, to the defendant, and until he is authorized or required by rule of Court to take it. If, for any reason, the money shall at any time be lost, or otherwise abstracted, or withdrawn through no fault of the defendant, the Court shall require the plaintiff to make and keep the sum good at all times until the litigation is finally brought to an end, and until paid over or made payable to the defendant by order of Court, as above provided. The Court, or the Judge thereof at Chambers, shall order the money to be deposited in the State treasury, and it shall be the duty of the State Treasurer to receive all such moneys, duly receipt for and safely keep the same in a special fund, to be entered on his books as a condemnation fund for such purpose, and for such duty he shall be liable to the State upon his official bond. The State Treasurer shall pay out such money, so deposited, in such manner and at such times as the Court, or Judge thereof at Chambers, may, by order or decree, direct. (Amendment, approved April 1, 1878; Amendments 1877-8, 108; took effect from passage.)*

Costs may be
allowed;
distribution
thereof.

SEC. 1255. Costs may be allowed or not, and if allowed, may be apportioned between the parties on the same or adverse sides, in the discretion of the Court.

Rules
of practice.

SEC. 1256. Except as otherwise provided in this title, the provisions of part two of this Code are applicable to and constitute the rules of practice in the proceedings mentioned in this title.

New trials
and appeals.

SEC. 1257. The provisions of part two of this Code, relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this title, apply to the proceedings mentioned in this title; *provided*, that upon the payment of the sum of money assessed, and upon the execution of the bond to build the fences and cattle-guards, as provided in section one thousand two hundred and fifty-one, the plaintiff shall be entitled to enter upon, improve, and

* Section three of Act of April 1, 1878, amending sections one thousand two hundred and fifty-four and one thousand two hundred and fifty-seven, declares:

SECTION 3. The provisions of this Act shall apply to all actions now pending in any of the Courts of this State.

hold possession of the property sought to be condemned (if not already in possession, as provided in section one thousand two hundred and fifty-four), and devote the same to the public use in question; and no motion for new trial or appeal shall, after such payment and filing of such bond as aforesaid, in any manner retard the contemplated improvement. Any money which shall have been deposited, as provided in section one thousand two hundred and fifty-four, may be applied to the payment of the money assessed, and the remainder, if any there be, shall be returned to the plaintiff. (Amendment, approved April 1, 1878; Amendments, 1877-8, 109; took effect from passage.)

SEC. 1258. With relation to the Acts passed at the present session of the Legislature, this title must be construed in the same manner as if this Code had been passed on the last day of this session, and from and after the time this Code takes effect all laws of this State in relation to the taking of private property for public uses are abolished, and all proceedings had in the exercise of the powers of eminent domain must conform to the provisions of this title.

When title
takes effect,
and con-
struction of.

SEC. 1259. Title seven, of part three, of the Code of Civil Procedure of the State of California (this title) shall be in force and effect from and after the fourth day of April, one thousand eight hundred and seventy-two.

When title
takes effect

SEC. 1260. From and after the time this title takes effect, it must be construed in the same manner as it would be were sections four and seventeen of this Code in force and effect.

Construc-
tion.

SEC. 1261. No proceeding to enforce the right of eminent domain, commenced before this title takes effect, is affected by the provisions of this title.

Pending
proceedings
not affected.

SEC. 1262. Until the first day of January, one thousand eight hundred and seventy-three, at twelve o'clock, noon, the provisions of sections one thousand two hundred and fifty-six and one thousand two hundred and fifty-seven of this title are suspended, and until then, except as otherwise provided in this title, the rules of pleading and practice in civil actions now in force in this State are applicable to the proceedings mentioned in this title, and constitute the rules of pleading and practice therein.

Rules
of practice.

SEC. 1263. Nothing in this Code must be construed to abrogate or repeal any statute providing for the taking of property in any city or town for street purposes.

Exceptions.

EXTRACTS FROM THE PENAL CODE.

PRELIMINARY PROVISIONS.

When this Act takes effect.	SECTION 2. This Code takes effect at twelve o'clock, noon, on the first day of January, eighteen hundred and seventy-three.
Not retroactive.	SEC. 3. No part of it is retroactive, unless expressly so declared.
Construction of the Penal Code.	SEC. 4. The rule of the common law, that penal statutes are to be strictly construed, has no application to this Code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its objects and to promote justice.
Provisions similar to existing laws, how construed.	SEC. 5. The provisions of this Code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.
Words, what included in definition.	SEC. 7. Words used in this Code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration; and every mode of oral statement under oath or affirmation is embraced by the term "testify," and every written one in the term "depose;" signature or subscription includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness. The following words, also, have in this Code the signification attached to them in this section, unless otherwise apparent from the context:
Willfully.	1. The word "willfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.
Neglect, negligence, etc.	2. The words "neglect," "negligence," "negligent," and

"negligently," import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

3. The word "corruptly" imports a wrongful design to Corruptly. acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

4. The words "malice" and "maliciously" import a wish Malice, maliciously. to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

5. The word "knowingly" imports only a knowledge that Knowingly. the facts exist which bring the act or omission within the provisions of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

6. The word "bribe" signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given in his action, vote, or opinion, in any public or official capacity. Bribe.

7. The word "vessel," when used with reference to ship- Vessel. ping, includes ships of all kinds, steamboats, canals, boats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

10. The word "property" includes both real and personal Property. property.

11. The words "real property" are co-extensive with lands, Real property. tenements, and hereditaments.

12. The words "personal property" include money, goods, Personal property. chattels, things in action, and evidences of debt.

13. The word "month" means a calendar month, unless Month. otherwise expressed.

14. The word "will" includes codicils. Will.

15. The word "writ" signifies an order or precept in writ- Writ. ing, issued in the name of the people, or of a Court or judicial officer, and the word "process" a writ or summons issued in the course of judicial proceedings.

16. Words and phrases must be construed according to the Technical words, etc. context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, must

be construed according to such peculiar and appropriate meaning.

"Crime"
and "public
offense"
defined.

SEC. 15. A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments:

1. Death;
2. Imprisonment;
3. Fine;
4. Removal from office; or,
5. Disqualification to hold and enjoy any office of honor, trust, or profit in this State.

Crimes, how
divided.

SEC. 16. Crimes are divided into:

1. Felonies; and,
2. Misdemeanors.

Crimes
defined.

SEC. 17. A felony is a crime which is punishable with death or by imprisonment in the State Prison. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the State Prison is also punishable by fine or imprisonment in a County Jail, in the discretion of the Court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the State Prison. (Amendment, approved March 7, 1874; Amendments 1873-4, 455; took effect sixtieth day after passage.)

Punishment
of felony,
when not
otherwise
prescribed

SEC. 18. Except in cases where a different punishment is prescribed by this Code, every offense declared to be a felony is punishable by imprisonment in the State Prison, not exceeding five years.

Punishment
of misde-
meanor,
when not
otherwise
prescribed.

SEC. 19. Except in cases where a different punishment is prescribed by this Code, every offense declared to be a misdemeanor is punishable by imprisonment in a County Jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both.

Unity of act
and intent.

SEC. 20. In every crime or public offense there must exist a union, or joint operation of act and intent, or criminal negligence.

Intent, how
manifested,
and who
considered
of sound
mind.

SEC. 21. The intent or intention is manifested by the circumstances connected with the offense, and the sound mind and discretion of the accused. All persons are of sound mind who are neither idiots or lunatics nor affected with insanity.

SEC. 22. No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition. But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute any particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act.

Drunkenness no excuse for crime; when it may be considered.

SEC. 355. Every person who defaces or obliterates the marks upon wrecked property, or in any manner disguises the appearance thereof, with intent to prevent the owner from discovering its identity, or who destroys or suppresses any invoice, bill of lading, or other document tending to show the ownership, is guilty of a misdemeanor.

Defacing marks upon wrecked property, and destroying bills of lading.

TITLE IX.

OF CLAIMS AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND GOOD MORALS.

CHAPTER XII.

OTHER INJURIES TO PERSONS.

SECTION 365. Every person, and every agent or officer of any corporation carrying on business as an innkeeper, or as a common carrier of passengers, who refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

Innkeepers and carriers refusing to receive guests and passengers.

TITLE X.

OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

SECTION 368. Every person having charge of any steam-boiler or steam-engine, or other apparatus for generating or employing steam, used in any manufactory, or on any railroad, or in any vessel, or in any kind of mechanical work, who willfully, or from ignorance or neglect, creates, or allows

Death from explosions, etc.

to be created, such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is produced, is punishable by imprisonment in the State Prison for not less than one nor more than ten years.

Death from
collision on
railroads.

SEC. 369. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad, car, locomotive, or train, who willfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the State Prison, for not less than one nor more than ten years.

Engineer of
locomotive
engine
omitting to
ring bell
when cross-
ing high-
way.

SEC. 390. Every person in charge of a locomotive engine who, before crossing any traveled public way, omits to cause a bell to ring or steam-whistle to sound at the distance of at least eighty rods from the crossing, and up to it, is guilty of a misdemeanor.

Intoxica-
tion of
engineers,
conductors,
or drivers of
locomotives
or cars.

*SEC. 391. Every person who is intoxicated while in charge of a locomotive engine, or while acting as conductor or driver upon any railroad train or car, whether propelled by steam or drawn by horses, or while acting as train dispatcher or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor.

Placing
passenger
cars in front
of freight
cars.

†SEC. 392. Every person who, in making up or running railroad trains, places or runs, or causes to be placed or run, any freight car in the rear of passenger cars, is guilty of a misdemeanor, and if loss of life or limb results from such placing or running, is guilty of felony. The term "freight car," as used in this section, does not include a baggage, express, or mail car.

Violation of
duty by
employés of
railroad
companies.

SEC. 393. Every engineer, conductor, brakeman, switch-tender, or other officer, agent, or servant of any railroad company, who is guilty of any willful violation or omission of his duty as such officer, agent, or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

*Compare section six, of chapter three, of Act relative to Commissioner of Transportation, approved April 1, 1878.

†Compare section one, of chapter three, of Act relative to Commissioner of Transportation, approved April 1, 1878.

TITLE XIII.

OF PUBLIC CRIMES AGAINST PROPERTY.

CHAPTER IV.

FORGERY AND COUNTERFEITING.

SECTION 481. Every person who counterfeits, forges, or alters any ticket, check, order, coupon, receipt for fare or pass, issued by any railroad company, or by any lessee or manager thereof, designed to entitle the holder to ride in the cars of such company, or who utters, publishes, or puts into circulation, any such counterfeit or altered ticket, check, or order, coupon, receipt for fare or pass, with intent to defraud any such railroad company, or any lessee thereof, or any other person, is punishable by imprisonment in the State Prison, or in the County Jail, not exceeding one year, or by fine not exceeding one thousand dollars, or by both such imprisonment and fine. (New section, approved March 30, 1874; Amendments 1873-4, 433; took effect July 1, 1874.)

Counterfeiting or forging ticket, check, etc., of railroad company.

SEC. 482. Every person who, for the purpose of restoring to its original appearance and nominal value in whole or in part, removes, conceals, fills up, or obliterates, the cuts, marks, punch-holes, or other evidence of cancellation, from any ticket, check, order, coupon, receipt for fare or pass, issued by any railroad company, or any lessee or manager thereof, canceled in whole or in part, with intent to dispose of by sale or gift, or to circulate the same, or with intent to defraud the railroad company, or lessee thereof, or any other person, or who, with like intent to defraud, offers for sale, or in payment of fare on the railroad of the company, such ticket, check, order, coupon, or pass, knowing the same to have been so restored, in whole or in part, is punishable by imprisonment in the County Jail, not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such imprisonment and fine. (New section, approved March 30, 1874; Amendments 1873-4, 433; took effect July 1, 1874.)

Restoring canceled ticket, check, etc., of railroad company, or offering the same in payment of fare.

SEC. 493. If the thing stolen is any ticket or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railroad or vessel

Value of passage tickets.

or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance is the value of such ticket, paper, or writing.

Written
instruments
completed
but not
delivered.

SEC. 494. All the provisions of this chapter apply where the property taken is an instrument for the payment of money, evidence of debt, public security, or passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner.

CHAPTER VI.

EMBEZZLEMENT.

"Embezzlement"
defined.

SECTION 503. Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted.

When
carrier or
other person
having
property for
transportation,
for
hire, guilty
of embezzlement.

SEC. 505. Every carrier or other person having under his control personal property for the purpose of transportation for hire, who fraudulently appropriates it to any use or purpose inconsistent with the safe keeping of such property and its transportation according to his trust, is guilty of embezzlement, whether he has broken the package in which such property is contained, or has otherwise separated the items thereof, or not.

CHAPTER VII.

EXTORTION.*

"Extortion"
defined.

SECTION 518. Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under color of official right.

What
threats may
constitute
extortion.

SEC. 519. Fear, such as will constitute extortion, may be induced by a threat, either:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his, or member of his family; or,

*Compare chapter two, of Act relative to Commissioner of Transportation, approved April 1, 1878.

2. To accuse him, or any relative of his or member of his family, of any crime; or,

3. To expose, or impute to him or them any deformity or disgrace; or,

4. To expose any secret affecting him or them.

SEC. 520. Every person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force, or any threat, such as is mentioned in the preceding section, is punishable by imprisonment in the State Prison not exceeding five years.

Punishment
of extortion
in certain
cases.

SEC. 521. Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed in this Code, is guilty of a misdemeanor.

Punishment
of extortion
committed
under color
of official
right.

SEC. 522. Every person who, by any extortionate means, obtains from another his signature to any paper or instrument, whereby, if such signature were freely given, any property would be transferred, or any debt, demand, charge, or right of action created, is punishable in the same manner as if the actual delivery of such debt, demand, charge, or right of action were obtained.

Obtaining
signature by
means of
threats.

SEC. 523. Every person who, with intent to extort any money or other property from another, sends or delivers to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat such as is specified in section five hundred and nineteen, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

Sending
threatening
letters with
intent to
extort
money, etc.

SEC. 524. Every person who unsuccessfully attempts, by means of any verbal threat, such as is specified in section five hundred and nineteen, to extort money or other property from another, is guilty of a misdemeanor.

Attempts to
extort
money or
property by
means of
verbal
threats.

SEC. 525. Every officer, agent, or employé of a railroad company who asks or receives a greater sum than is allowed by law for the carriage of passengers or freight, is guilty of a misdemeanor.

Officers of
railroad
companies
making
overcharges.

CHAPTER XIII.

FRAUDULENT INSOLVENCIES BY CORPORATIONS, AND OTHER
FRAUDS IN THEIR MANAGEMENT.

Fraud in
subscriptions
for stock of
corporations.

SECTION 557. Every person who signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that such person has not means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

Frauds in
procuring
organization
of corporation,
or
increasing
its capital.

SEC. 558. Every officer, agent, or clerk of any corporation, or of any persons proposing to organize a corporation, or to increase the capital stock of any corporation, who knowingly exhibits any false, forged, or altered book, paper, voucher, security, or other instrument of evidence to any public officer or Board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to be allowed an increase of its capital, with intent to deceive such officer or Board in respect thereto, is punishable by imprisonment in the State Prison not less than three nor more than ten years.

Unauthorized
use of
name in
prospectus,
etc.

SEC. 559. Every person who, without being authorized so to do, subscribes the name of another to or inserts the name of another in any prospectus, circular, or other advertisement, or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member, or promoter of such corporation or association, is guilty of a misdemeanor.

Misconduct
of directors
of stock corporations.

SEC. 560. Every director of any stock corporation who concurs in any vote or act of the directors of such corporation or any of them, by which it is intended, either:

1. To make any dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,
2. To divide, withdraw, or in any manner, except as pro-

vided by law, pay to the stockholders, or any of them, any part of the capital stock of the corporation; or,

3. To discount or receive any note or other evidence of debt in payment of any installment actually called in and required to be paid, or with the intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with the intent to enable any stockholder to withdraw any part of the money paid in by him, or his stock; or,

5. To receive from any other stock corporation, in exchange for the shares, notes, bonds, or other evidences of debt of their own corporation, shares of the capital stock of such other corporation, or notes, bonds, or other evidences of debt issued by such other corporation;

Is guilty of a misdemeanor.

SEC. 563. Every director, officer, or agent of any corporation or joint stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and who, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of such corporation or association, and every director, officer, agent, or member of any corporation or joint stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings, or securities belonging to such corporation or association, or makes, or concurs in making, any false entries, or omits, or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in the State Prison not less than three nor more than ten years, or by imprisonment in a County Jail not exceeding one year, and a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

Frauds in
keeping
accounts in
books of cor-
porations.

SEC. 564. Every director, officer, or agent of any corporation or joint stock association, who knowingly concurs in making, publishing, or posting any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or refuses to make any book or post any notice required by law, in the manner required by law, other than such as are mentioned in this chapter, is guilty of a felony. (Amendment,

Officer of
corporation
publishing
false reports
of its
condition.

approved January 27, 1876; Amendments 1875-6, 113; took effect sixtieth day after passage.)

Officer of corporation to permit an inspection of its books.

SEC. 565. Every officer or agent of any corporation, having or keeping an office within this State, who has in his custody or control any book, paper, or document of such corporation, and who refuses to give to a stockholder or member of such corporation, lawfully demanding, during office hours, to inspect or take a copy of the same, or of any part thereof, a reasonable opportunity so to do, is guilty of a misdemeanor.

Officer of railroad company contracting debt in its behalf exceeding its available means.

SEC. 566. Every officer, agent, or stockholder of any railroad company, who knowingly assents to or has any agency in contracting any debt by or on behalf of such company, unauthorized by a special law for the purpose, the amount of which debt, with other debts of the company, exceeds its available means for the payment of its debts, in its possession, under its control, and belonging to it at the time such debt is contracted, including its bona fide and available stock subscriptions, and exclusive of its real estate, is guilty of a misdemeanor.

Debt contracted in violation of last section not invalid.

SEC. 567. The last section does not affect the validity of a debt created in violation of its provisions, as against the company.

Director of corporation presumed to have knowledge of its affairs.

SEC. 568. Every director of a corporation or joint stock association is deemed to possess such a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of this chapter.

Director present at meeting, when presumed to have assented to proceedings.

SEC. 569. Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding, or omission of such directors, in violation of this chapter occurs, is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

Director absent from meeting, when presumed to have assented to proceedings.

SEC. 570. Every director of a corporation or joint stock association, although not present at a meeting of the directors at which any act, proceeding, or omission of such directors, in violation of this chapter occurs, is deemed to have concurred therein, if the facts constituting such violation appear on the records or minutes of the proceedings of the Board of Directors, and he remains a director of the same

company for six months thereafter, and does not within that time cause, or in writing require, his dissent from such illegality to be entered in the minutes of the directors.

SEC. 571. It is no defense to a prosecution for a violation of the provisions of this chapter that the corporation was one created by the laws of another State, government, or country, if it was one carrying on business or keeping an office therefor within this State. Foreign corporations.

SEC. 572. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter or known by law. "Director" defined.

CHAPTER XIV.

FRAUDULENT ISSUE OF DOCUMENTS OF TITLE TO MERCHANDISE.

SECTION 577. Every person, being the master, owner, or agent of any vessel, or officer or agent of any railroad, express, or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt, or other voucher, by which it appears that any merchandise of any description has been shipped on board any vessel, or delivered to any railroad, express, or transportation company or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt, or voucher, is punishable by imprisonment in the State Prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both. Issuing fictitious bills of lading, etc.

SEC. 578. Every person carrying on the business of a warehouseman, wharfinger, or other depositary of property, who issues any receipt, bill of lading, or other voucher for any merchandise of any description, which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise or as security for Issuing fictitious warehouse receipts.

any indebtedness, is punishable by imprisonment in the State Prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Erroneous bills of lading or receipts issued in good faith excepted.

SEC. 579. No person can be convicted of an offense under the last two sections by reason that the contents of any barrel, box, case, cask, or other vessel or package mentioned in the bill of lading, receipt, or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponded substantially with the marks, labels, or brands upon the outside of such vessel, or package, unless it appears that the accused knew that such marks, labels, or brands were untrue.

Duplicate receipts must be marked "duplicate."

SEC. 580. Every person mentioned in this chapter, who issues any second or duplicate receipt or voucher, of a kind specified therein, at a time while any former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment in the State Prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Selling, hypothecating, or pledging property received for transportation or storage.

SEC. 581. Every person mentioned in this chapter, who sells, hypothecates, or pledges any merchandise for which any bill of lading, receipt, or voucher has been issued by him, without the consent, in writing, thereto of the person holding such bill, receipt, or voucher, is punishable by imprisonment in the State Prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Property demanded by process of law.

SEC. 583. The last two sections do not apply where property is demanded or sold by virtue of process of law.

CHAPTER XV.

MALICIOUS INJURIES TO RAILROAD BRIDGES, HIGHWAYS, BRIDGES, AND TELEGRAPHS.

Injuries to railroads and railroad bridges.

SECTION 587. Every person who maliciously, either :

1. Removes, displaces, injures, or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branch-way, switch, turnout,

bridge, viaduct, culvert, embankment, station-house, or other structure or fixture, or any part thereof, attached to or connected with any railroad; or,

2. Places any obstruction upon the rails or track of any railroad, or of any switch, branch, branch-way, or turnout connected with any railroad;

Is punishable by imprisonment in the State Prison not exceeding five years, or in the County Jail not less than six months.

SEC. 590. Every person who maliciously removes or injures any mile-board, post, or stone, or guide-post, or any inscription on such, erected upon any highway, is guilty of a misdemeanor.

Injuries to
mile-stones
and guide-
boards.

SEC. 591. Every person who maliciously takes down, removes, injures, or obstructs any line of telegraph, or any part thereof, or appurtenance or apparatus connected therewith, or severs any wire thereof, is guilty of a misdemeanor.

Injuring
telegraph
lines.

TITLE XIV.

MALICIOUS MISCHIEF.

SECTION 594. Every person who maliciously injures or destroys any real or personal property not his own, in cases otherwise than such as are specified in this Code, is guilty of a misdemeanor.

Malicious
mischief
in general,
defined.

SEC. 595. The specification of the acts enumerated in the following sections of this chapter is not intended to restrict or qualify the interpretation of the preceding section.

Specifica-
tions in
following
sections not
restrictive of
last section.

SEC. 600. Every person who willfully and maliciously burns any bridge exceeding in value fifty dollars, or any building, snow-shed, or vessel, not the subject of arson, or any stack of grain of any kind, or of hay, or any growing or standing grain, grass, or tree, or any fence, not the property of such person, is punishable by imprisonment in the State Prison for not less than one nor more than ten years.

Burning
buildings
and other
property not
the subject
of arson.

PART II.

TITLE III.

OF PROCEEDINGS IN CRIMINAL ACTIONS PROSECUTED
DICTMENT, TO THE COMMITMENT, INCLUSIVE.

CHAPTER I.

OF THE LOCAL JURISDICTION OF PUBLIC OFFENSES.

Jurisdiction
of an offense
on board a
vessel, or on
railroad
train or car.

SECTION 783. When an offense is committed in this State, on board a vessel navigating a river, bay, slough, lake, or canal, or lying therein, in the prosecution of her voyage, the jurisdiction is in any county through which the vessel is navigated in the course of her voyage, or in the county where the voyage terminates; and when the offense is committed in this State, on a railroad train or car prosecuting its trip, the jurisdiction is in any county through which the train or car passes in the course of her trip, or in the county where the trip terminates. (Amendment, approved January 28, 1876; Amendments 1875-6, 116; took effect sixtieth day after passage.)

GENERAL LAWS RELATING TO RAILROADS;

PASSED BY THE TWENTY-SECOND SESSION OF THE LEGISLATURE OF
THE STATE OF CALIFORNIA.

CHAP. DXCVII.—*An Act to enable railroad companies to complete their railroads.*

[Approved April 1, 1878.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. Every railroad company heretofore organized under the laws of this State, and which has completed a portion of its road prior to the passage of this Act, is hereby authorized and empowered to complete its road as described in its articles of incorporation, notwithstanding it may not have begun the construction of its road within two years after filing its original articles of incorporation, and notwithstanding it may not have completed and put in operation five miles of its road each year thereafter.

Authorizing
construction
of railroads.

SEC. 2. This Act shall take effect from and after its passage.

CHAP. DCXIII.—*An Act imposing a tax on the issue of certificates of stock corporations.*

[Approved April 1, 1878.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. It shall be lawful for the Secretary of every corporation in the State of California to demand and receive of any person requiring the issue to him of any certificate of stock in such corporation, a fee of ten cents in coin for each certificate, whether such certificate be the original issue or an issue on transfer, and such certificate shall not be delivered by the Secretary until such fee shall be paid.

Fee allowed.

Duty of
Secretary.

SEC. 2. It shall be the duty of the Secretary of every such corporation, on the first Monday in January, April, July, and October, of each year, to make returns, under oath, to the Tax Collector, or officer acting as Tax Collector, of the number of certificates issued by the corporation of which he is Secretary, during the quarter preceding, and pay to such Tax Collector the sum of ten cents in coin for each and every certificate so issued by said corporation, except that in the City and County of San Francisco such returns and payments shall be made to the License Collector, or officer engaged in the collection of licenses in said city and county.

Examina-
tion of
Secretary
and books.

SEC. 3. Such Tax Collector, or License Collector, is hereby authorized and empowered to examine such Secretary, under oath, as to the truth of said returns, and to examine, if necessary, the books of such corporation, so far as they relate to the transfer of stock, or issue of certificates, and if the returns are not correct then he is authorized to commence an action against such corporation in any Court of competent jurisdiction, in the name of The People of the State of California, for a penalty of one hundred dollars for each certificate issued by such corporation and not so returned under oath, and several penalties may be joined in such action.

Perjury.

SEC. 4. Any person violating the provisions of section two of this Act shall be deemed guilty of a misdemeanor, and false swearing to any return provided in section two shall be deemed perjury.

Disposal of
moneys
collected.

SEC. 5. All moneys collected under the provisions of this Act shall be paid by such Tax Collector, or License Collector, into the county treasury, and shall become a part of the General Fund, or if there shall in any county be no General Fund, then the same shall become a part of such fund as the Board of Supervisors may direct.

SEC. 6. This Act shall take effect on the first Monday in April, 1878.

CHAPTER DCXLI.—*An Act to create the office of Commissioner of Transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freights on certain railroads, and to prevent extortion and unjust discrimination thereon.*

[Approved April 1, 1878.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

CHAPTER I.

SECTION 1. On or before the first Monday of May, A. D. eighteen hundred and seventy-eight, the Governor shall appoint a competent person, to be styled the Commissioner of Transportation, who shall be the legal successor of the present Board of Commissioners of Transportation, and who shall hold office for the period of four years, and until his successor is appointed and qualified.

SEC. 2. Before entering upon the duties of his office, said Commissioner shall take an oath or affirmation that he will faithfully discharge his duties as such Commissioner, that he is not an officer or employé of any railroad corporation or company, or in any way interested therein, that he is not a stockholder, officer, or employé of, or in any way interested in any express or freight company doing business on any railroad in the United States. He shall execute and file in the office of the Secretary of State an official bond, with sufficient sureties, to be approved by the Governor, in the penal sum of ten thousand dollars, for the faithful performance of his duties under this Act.

SEC. 3. Said Commissioner shall keep his office in the State Capitol. He shall be allowed a contingent fund, not exceeding fifty dollars per month, for the contingent expenses of his office, and may appoint a Secretary, who shall receive a salary of twenty-four hundred dollars per annum.

SEC. 4. It shall be the duty of said Commissioner, whenever he shall deem it necessary, to inspect all railroads operated by steam power (except street railroads) within this State, and to examine the same with reference to the security and accommodation of the public, and if on such examination, in his opinion any of the tracks, bridges, or other structures or works thereof are unfit for the transportation

of passengers with reasonable safety, it shall be his duty to give the Superintendent or other executive officer of the corporation or company working or operating such defective track, bridge, structure, or work, notice of the condition thereof, and of the repairs necessary to place the same in a safe condition; and if any such Superintendent or other executive officer receiving such notice shall willfully neglect to commence repairing the same for the period of two days after receiving such notice, such Superintendent or other executive officer shall be deemed guilty of a misdemeanor.

Petition.

SEC. 5. Whenever a petition, signed in good faith by fifty or more property holders residing within ten miles of any proposed station, switch, or side track upon any railroad included within the provisions of this Act, shall be presented to said Commissioner, praying for the establishment of a new station, switch, or side track, the Commissioner shall notify the managers of such railroad of such petition, and appoint a time and place of hearing the same. If, upon such hearing, it shall appear that such station, switch, or side track ought to be established the Commissioner shall so determine, and at the same time designate a reasonable time within which the same shall be done, and give due notice thereof, in writing, to said managers; *provided*, that said Commissioner shall not require such new station, switch, or side track to be established within less than five miles of one already established.

Copy of Act
to be served
on railroad
corporations.

SEC. 6. Within thirty days after the passage of this Act said Commissioner shall cause a copy of the same to be served upon every such railroad corporation engaged in the business of transportation within this State, and within ten days after such service it shall be the duty of such corporation to file in the office of said Commissioner, and in the office of the Secretary of State, and in the office of the County Clerk of each county in which the road is located, a copy, verified by the oath or affirmation of the President or other chief executive officer, of all and singular the tariffs and rates of freight, passage money, commutation rates, and charges lawfully in force, together with copies of all their rules, regulations, and instructions to employés concerning the carriage of persons and merchandise under which the road was being operated on the first day of January, eighteen hundred and seventy-eight, and it shall not be lawful for

any of said corporations to increase any rates of freight or passage, or to raise the classification of any species of goods, or to change any rule or instruction to employés in such manner as to increase the cost of transportation over and above the rates charged in such tariff, or in use on the first day of January, eighteen hundred and seventy-eight; *provided*, that any such railroad company may issue excursion tickets at reduced rates for special trains, or between certain places, and for a fixed time.

SEC. 7. It is hereby made the duty of the President, or other executive officer, of each and every railroad company having a line of railroad in this State (except street railroads), to make an annual report, verified by his oath, on or before the first day of July of each year, to said Commissioner, for the year ending on the thirty-first day of December preceding, and said report shall supersede all other annual reports now required by law to be made by any railroad company to any officer of the State, and which report shall state:

Annual
reports to
be made.

1. Capital stock authorized by charter.
2. Capital stock authorized by votes of company.
3. Capital stock issued; (number of shares); amount paid in.
4. Capital stock paid in on shares not issued (number of shares).
5. Total amount paid in as per books of the company.
6. Amount of capital stock issued but not full paid.
7. Amount per share still due thereon.
8. Par value of shares issued.
9. Total number of stockholders.
10. Number of stockholders in California.
11. Amount of stock held in California.

Contents
of report.

DEBT.

12. Funded debt as follows:
 - Bonds due; rate of interest; interest paid on same during year.
 - Certificates of indebtedness; interest paid on same during year.
13. Total amount of funded debt.
14. Unfunded debt as follows:
 - Incurred for construction, equipment, or purchase of property.

Contents
of report.

All other debts, current credit, balances, etc.

15. Total amount of unfunded debt.
16. Total gross debt liabilities.
17. Amount of cash, materials, and supplies on hand, sinking funds in hands of trustees, and such securities and debit balances as represent cash assets, specifying each.
18. Total net debt liabilities as per books of the company.
19. Amount of bonds or stock of other companies guaranteed, principal or interest, or on which interest is paid by this company, giving name of each.
20. Amount of claims against the company which, for any reason, have not been entered upon the books.

COST OF ROAD, EQUIPMENT, AND PROPERTY—ROAD AND BRANCHES.

1. Grading and masonry.
2. Bridging.
3. Superstructure, including rails.
4. Land, land damages, and fences.
5. Passenger and freight stations.
6. Engine houses, car sheds, and turn-tables.
7. Machine shops, including machinery and tools.
8. Interest paid during construction, discount, etc.
9. Engineering, agencies, salaries, and other expenses during construction.
10. — branch;
Original cost.
Purchased for.
11. Total cost of construction.

EQUIPMENT.

12. Locomotives; (number).
13. Snow plows on wheels.
14. Parlor cars.
15. Sleeping cars.
16. Passenger, mail, and baggage cars.
17. Freight and other cars.
18. Total for equipment.

PROPERTY PURCHASED AND ON HAND, NOT INCLUDED IN THE FOREGOING ACCOUNTS.

19. Lands in —; (if not used in business of road, so state).

20. Stock of [other] roads.
 — shares; purchased for.
21. Bonds of [other roads];
 Nominal amount.
 [Purchased for].
22. Other securities.
23. Steamboat property;
 Nominal amount.
 [Purchased for].
24. Investment in transportation lines;
 Nominal amount.
 Purchased for.
25. Other property purchased.
26. Total for property purchased, etc.
27. Whole amount of permanent investments.
28. Property in California.
29. Amount of supplies and materials on hand.
30. Cash and cash assets.
31. Total property and assets of the company.
32. Amount of sinking and contingent funds, and their purpose.

EXPENDITURES CHARGED TO PROPERTY ACCOUNT DURING THE
 YEAR.

1. Grading and masonry.
2. Bridging.
3. Superstructure, including rails.
4. Land, land damages, and fences.
5. Passenger and freight stations.
 Wood sheds and water stations.
6. Engine houses, car sheds, and turn-tables.
7. Machine shops.
8. Engineering, agencies, salaries, and other expenses during construction.
9. Locomotives; (number).
10. Snow plows on wheels.
11. Parlor cars.
12. Sleeping cars.
13. Passenger, mail, and baggage cars.
14. Freight and other cars.
15. Purchase of other roads, specifying what.
16. Subscriptions or loans to other roads, specifying same.

Contents
of report.

17. Any other expenditures charged to property account, specifying same.
18. Total.
19. Property sold and credited property account, during the year, specifying same.
20. Net addition to property account for the year.

REVENUE FOR THE YEAR.

1. Derived from local passenger, on roads operated by this company.
2. Derived from passengers from and to other roads over roads operated by this company.
3. Derived from other roads as toll or for use of passenger cars.
4. Derived from other sources belonging to passenger department.
5. Derived from express and extra baggage.
6. Derived from mails.
7. Total earnings from passenger department.
8. Derived from local freight on roads operated by this company.
9. Derived from other roads as tolls, or for the use of freight cars.
10. Derived from freight from and to other roads on joint tariff.
11. Derived from other sources belonging to freight department.
12. Total earnings from freight department.
13. Derived from rents for use of road and equipment, when leased.
14. Total transportation earnings.
15. Earnings per mile of road operated.
16. Per train mile (total passenger and freight).
17. Income derived from rent of property, other than road and equipment, specifying same.
18. Income derived from all other sources (including accretions from sinking funds, investments in stocks, bonds, steamboat property, transportation lines, etc., specifying same).
19. Total income derived from all sources.

EXPENSES FOR OPERATING THE ROAD FOR THE YEAR—Contents
of report.
CLASS ONE—GENERAL TRAFFIC EXPENSES.

1. Taxes, State and local.
2. General salaries, office expenses, and miscellaneous, not embraced in classes three and four.
3. Insurance premiums, and losses by fire, and damages for fires set by engines.
4. Telegraph expenses.
5. Total.
6. Proportion belonging to passenger department.
7. Proportion belonging to freight department.

CLASS TWO—MAINTENANCE OF WAY AND BUILDINGS, AND
MOVEMENT EXPENSES.

1. Repairs of road, (exclusive of bridges, new rails, and new ties).
2. Iron rails laid, deducting old rails taken up; number of miles; weight per yard.
3. Steel rails laid, deducting old rails taken up; number of miles; weight per yard.
4. New ties; number; cost.
5. Repairs of bridges.
6. Repairs of buildings and fixtures (stations and turntables).
7. Repairs of, and additions to, machine shops and machinery.
8. Repairs of fences, road crossings, and signs.
9. Removing ice and snow.
10. Repairs of locomotives.
11. New locomotives charged to operating expenses.
12. Repairs of snow plows.
13. New snow plows (charged to operating expenses).
14. Fuel for engines and cars.
 - cords of wood, cost.
 - tons of coal, cost.
15. Water and water stations.
16. Fuel for station and shops.
17. Oil and waste.
18. Switchman, watchman, flag and signalmen.
19. Total.

Contents
of report.

20. Proportion of same to passenger department.
21. Proportion of same to freight department.
22. Of the above, there was expended for other than ordinary repairs.

CLASS THREE—PASSENGER TRAFFIC EXPENSES.

1. Repairs of passenger, mail, and baggage cars.
2. New passenger, mail, and baggage cars (charged to operating expenses).
3. Damages and gratuities, passengers.
4. Salaries, wages, and incidentals of passenger trains.
5. Salaries, wages, and incidentals of passenger stations.
6. Amount paid other corporations or individuals not operating roads for use of passenger cars, and repairs of same.
7. Amount paid other roads for balance of mileage of passenger cars.
8. Total.

CLASS FOUR—FREIGHT TRAFFIC EXPENSES.

1. Repair of freight cars.
2. New freight cars (charged to operating expenses).
3. Damages and gratuities, freight.
4. Salaries, wages, and incidentals of freight trains.
5. Salaries, wages, and incidentals of freight stations.
6. Paid corporations or individuals not operating roads for use of freight cars.
7. Amount paid other roads for balance of mileage of freight cars.
8. Total.
9. Total expenses of operating the road, embraced in classes one, two, three, four.
10. Per train mile (total passenger and freight).
11. Percentage of expenses to total transportation earnings.
12. Amount paid other companies as rent for use of road, specifying each company, the amount and basis on which rent is computed.
13. Total expenses.

NET INCOME, DIVIDENDS, ETC.

1. Total net income.
2. Percentage of same to capital stock, and not [net?] debt.

3. Percentage of same to total property and assets.

Contents
of report.

4. Interest accrued during the year.

On funded debt.

On other debt.

Total.

5. Dividends declared ; per cent. for the year ; amount.

6. Date of last dividend declared.

7. Balance for the year or surplus.

8. Surplus at commencement of the year.

Deduct or add entries made in profit and loss account during the year not included in the foregoing statement.

9. Surplus at commencement of the year as changed by aforesaid entries.

10. Total surplus December thirty-first, eighteen —.

11. Paid to sinking funds in hand of Trustees.

EARNINGS, EXPENSES, NET EARNINGS, ETC., OF PASSENGER DEPARTMENT.

1. Total earnings from passenger department, as per "Revenue for the Year," number seven.

2. Per passenger train mile.

3. Expenses, proportion of "General Traffic Expenses," as per class one, number six.

4. Expenses, proportion of "Maintenance of Way and Buildings and Movement Expenses," as per class two, number twenty.

5. Expenses ; "Passenger Traffic," as per class three, number eight.

6. Total expenses.

7. Per passenger train mile.

8. Net earnings.

9. Per passenger train mile.

RECEIPTS, EXPENSES, NET EARNINGS, ETC., OF FREIGHT DEPARTMENT.

1. Total earnings from freight department, as per "Revenue for the Year," number twelve.

2. Per freight train mile.

3. Expenses ; proportion of "General Traffic Expenses," as per class one, number seven.

4. Expenses ; proportion of "Maintenance of Ways and

Contents
of report.

Buildings and Movement Expenses," as per class two, number twenty-one.

5. Expenses; "Freight Traffic," as per class four, number eight.

6. Total expenses.

7. Per freight train mile.

8. Net earnings.

9. Per freight train mile.

GENERAL BALANCE SHEET AT CLOSING OF ACCOUNTS DECEMBER THIRTY-FIRST, EIGHTEEN —.

Cost of road.

Cost of equipment.

Other investments.

Supplies and materials on hand.

Sinking funds in hands of Trustees.

Cash, cash assets, and other items (specifying same).

Capital stock.

Funded debt.

Other debts (specifying same).

Profit and loss account for the year ending December thirty-first, eighteen —.

DESCRIPTION OF ROAD.

1. Date when the road or portions thereof were opened for public use.

From — to —.

From — to —.

From — to —.

From — to —.

2. Length of main line of road.

From — to —.

Length of main line in California.

Length of main line in other States.

3. Length of line with track laid, if road is not completed.

4. Length of double track on main line.

5. Branches owned by the company.

Names and description of; single or double track; length.

6. Total length of branches owned by the company.

7. Total length of branches owned by the company in California.

8. Total length of branches owned by the company in other States. Contents
of report.

9. Length of double track on branches.

10. Total length of road belonging to this company.

11. Aggregate length of siding and other tracks not enumerated above.

12. Same in California.

13. Aggregate length of track belonging to this company, computed as single track.

14. Same in California.

15. Total length of steel rail in tracks belonging to this company, not including steel top rails; weights per yard.

16. Number of spans of bridges of twenty-five feet and upwards.

17. Number of iron bridges; aggregate length [in] feet.

18. Number of wooden bridges; aggregate length [in] feet.

BRIDGES BUILT WITHIN THE YEAR IN CALIFORNIA.

Location.	Kind.	Material.	Length.	When built.
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----

19. Number of crossings of highways at grade.

20. Number of crossings of highways over railroad.

21. Number of crossings of highways under railroad.

22. Number of highway bridges, eighteen feet above track.

23. Number of highway bridges less than eighteen feet above track.

24. Number of crossings at which gates or flagmen are maintained.

25. Number of crossings at which electric signals are maintained.

26. Number of crossings at which there are neither electric signals, gates, nor flagmen.

27. Number of railroad crossings at grade, specifying each.

28. Number of railroad crossings over other roads, specifying same.

29. Number of railroad crossings under other railroads, specifying each.

Contents
of report.

**ROADS BELONGING TO OTHER COMPANIES OPERATED BY THE
COMPANY UNDER LEASE OR CONTRACT.**

30. Name, description, and length of each.

Name.	Description.	Length.
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----

31. Total length of above roads.

32. Total length of above roads in California.

33. Total length of above roads in other States, specifying each.

34. Total miles of road operated by this company.

35. Total miles of road operated by this company in California.

36. Number of stations on all roads operated by this company.

37. Number of stations on all roads owned by this company.

38. Same in California.

39. Miles of telegraph on line of road operated by this company.

40. Miles of telegraph owned by this company.

41. Number of telegraph offices in company's stations.

42. Number of telegraph stations operated by this company.

43. Number of telegraph stations operated jointly by railroad and telegraph companies.

ROLLING STOCK.

1. Locomotives; average weight of engines in working order.

Locomotives; maximum weight of engines [in working order].

2. Tenders; average weight of tenders full of fuel and water.

Tenders; maximum weight of tenders full of fuel and water.

Average joint weight of engines and tenders.

3. Length of heaviest engine and tender from center of forward truck wheel of engine to center of rear wheel of tender. Contents
of report.

4. Total length of heaviest engine and tender over all.
5. Snow plows; (average weight).
6. Passenger cars; (average weight).
Passenger cars; (maximum weight).
7. Mail and baggage cars; (average weight).
8. Eight-wheel box freight cars.
9. Four-wheel box freight cars; (average weight).
10. Eight-wheel platform cars; (average weight).
11. Four-wheel platform cars; (average weight).
12. Other cars, coal and gravel; (average weight).
13. Total market value.
14. Total freight cars, including coal, etc., on a basis of eight wheels.
15. Number of locomotives equipped with train brakes; kind of brake.
16. Number of cars equipped with train brakes; kind of brake.
17. Number of passenger cars, with Miller platform and buffer.

MILEAGE, TRAFFIC, ETC.

1. Miles run by passenger trains.
2. Rate of speed of express passenger trains, including stops.
3. Rate of speed of accommodation trains, including stops.
4. Miles run by freight trains.
5. Rate of speed of express freight trains, including stops.
6. Rate of speed of accommodation freight trains, including stops.
7. Miles run by other trains, and for what purpose.
8. Total train miles run.
9. Total number of passengers carried.
10. Total passenger mileage, or passengers carried one mile.
11. Passenger mileage to and from other roads.
12. Number of tons carried, (not including gravel).
13. Total freight mileage, or tons carried one mile.
14. Freight mileage to and from other roads.
15. Highest rate of fare per mile for any distance, (exceeding one mile).

Contents
of report.

16. Lowest rate of fare per mile for any distance; (single fare).

17. Average rate of fare per mile, (not including season tickets,) received from local passengers on roads operated by this company.

18. Average rate of fare per mile received from passengers to and from other roads.

19. Average rate of fare per mile for season ticket passengers receiving [reckoning?] one round trip per day to each ticket.

20. Average rate of fare per mile for all passengers.

21. Highest rate of freight per ton per mile for any distance.

22. Lowest rate of freight per ton per mile for any distance.

23. Average rate of local freight per ton per mile on roads operated by this company.

24. Average rate of freight per ton per mile to and from other roads.

25. Average rate of freight per ton per mile for all.

26. Average number of cars in passenger trains, (including baggage cars).

27. Average number of cars in freight trains, basis of eight-wheel.

28. Average weight of passenger trains, including locomotives and tenders in working order, exclusive of passengers.

29. Average weight of freight trains, including locomotive and tender in working order, exclusive of freight.

30. Number of persons regularly employed by company, including officers.

RELATING TO PASSENGERS.

1. Total season ticket passengers (round trip).

2. Passengers to San Francisco (including season).

3. Passengers from San Francisco (including season).

4. Season ticket passengers to and from San Francisco (one round trip daily).

LIST OF ACCIDENTS IN CALIFORNIA.

Contents
of report.

	From causes beyond their own control—in California.		From their own misconduct or carelessness—in California.		Total in California.		Total on whole road operated.	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
Passengers								
Employees								
Others								

Statement of each accident in California:

SEC. 8. For the purpose of testing the accuracy of the report required by the seventh section of this chapter, said Commissioner shall have power to examine the books and papers of any railroad corporation or company, and also any officer, agent, or employé of any railroad corporation or company in relation to the matters and things specified or contained therein, under oath.

Powers and
duty of Commissioner.

SEC. 9. Said Commissioner shall cause to be prepared and printed suitable blanks for the annual report mentioned in section seven of this chapter, and shall furnish the same to the several corporations in season to be filled in and returned to the Commissioner on or before the first day of July of each year. He shall also submit to the Legislature, on the first day of its next session, said annual report, together with his deductions therefrom, and such recommendations as he may desire to make concerning the management and operation of railroads in this State. There shall be printed two thousand five hundred copies of the report of the Commissioner of Transportation.

SEC. 10. Whenever the directors of any railroad company shall fail to agree with the municipal authorities of any town or city, as to the route of their railroad in such town or city,

Powers and
duty of Com-
missioner.

either party may petition said Commissioner to fix the route in said town or city, and said Commissioner, after due notice to the other party, shall hear the case and fix the route in said town or city.

SEC. 11. It shall be the duty of said Commissioner, upon the petition of either party, after twenty days' notice to the other, to hear and determine the following cases: The compensation to be paid by one railroad corporation or company to another connecting therewith, for receiving, transferring, forwarding, and transporting cars, passengers, and freights, having reference to the convenience and interest of the corporation, and the public to be accommodated thereby; to determine what accommodations are required therefor, including terminal accommodations, and to fix the compensation to be paid for the same; to fix time tables between different roads for points of junction.

SEC. 12. Any award made by said Commissioner shall be binding upon the respective corporations and parties interested therein, until the same shall have been revised or altered by said Commissioner, or reversed on appeal to the Supreme Court, as hereinafter provided.

SEC. 13. Any award made by said Commissioner shall be returnable, with the evidence, on the request, in writing, of any party affected thereby, and filed within thirty days after the rendition of such award, in the County Court of the county in which the controversy arose; and shall be then subject to revision in the same manner as if said Commissioner had derived his power to act in the premises under the appointment of said Court, with the right of appeal to the Supreme Court as in other cases.

Stop-over
ticket.

SEC. 14. Any person traveling on any such railroad in this State, desiring to stop over at any station between the point of his departure and destination, shall, upon request, be entitled to receive from the conductor of its train, without further charge thereon, a stop-over ticket, which shall be good for the remainder of his journey, and may be used at any time within one year after it shall have been issued.

Extra fare.

* SEC. 15. If any passenger shall neglect to procure a ticket from the ticket office of the company at the station where he shall take passage, having an opportunity so to do, it shall

* Amendatory of section two thousand one hundred and eighty-nine of the Penal Code.

be lawful for the company to demand and collect from him, in addition to the fare, as fixed by the regular tariff of such company, the sum of ten cents (in all cases where such fare is less than one dollar, and at the rate of ten per cent. on all fares in excess of one dollar).

SEC. 16. It shall be the duty of the Commissioner to examine into all complaints made in writing as to unjust discrimination between persons or places, and to endeavor, by amicable interposition, to bring about such changes in tariff or rules as shall, in his judgment, promote the public interest, and shall report all such cases, with the results of his investigation and interposition, to the Governor.

Commissioner to examine into complaints.

SEC. 17. The terms of transportation over railroads for goods of like class and like quantities shall be uniform to all persons, and any rebate, discount, or other favor, concession, or privilege granted to one person from a company shall be equally open to all others applying on like terms.

Terms of transportation to be uniform.

SEC. 18. The provisions of this Act shall be applicable to all railroads, the cars of which are propelled by steam (except street railroads) now or hereafter to be operated by corporations, trustees, companies, or individuals in this State.

Provisions made applicable.

SEC. 19. The said Commissioner of Transportation shall qualify and enter upon the discharge of the duties of his office within ten days after his appointment as hereinbefore provided. He shall, without unreasonable delay, demand and receive from the Commissioners of Transportation, appointed under an Act entitled an Act to provide for the appointment of Commissioners of Transportation, to fix the maximum charges for freights and fares, and to prevent extortion and discrimination on railroads in this State, approved April third, eighteen hundred and seventy-six, any and all books, records, documents, papers, tables, maps, plans, stationery, fuel, furniture, and property of all kinds belonging to the State in their office, or in their custody or under their control, and it is hereby made their duty to deliver them to him.

Commissioner to assume duties without delay.

SEC. 20. The Commissioner of Transportation shall receive a salary of four thousand dollars per annum, which, with that of the Secretary herein provided, shall be paid by the State of California in the same manner as the salaries of State officers are paid. The Commissioner and his Secretary

Salary.

shall be transported free of charge over the various railroads within this State, in the discharge of their official duties.

CHAPTER II.—EXTORTIONS, DISCRIMINATIONS, FORFEITURES,
AND PENALTIES.

Extortion. * SECTION 1. A railroad company shall be deemed guilty of extortion in the following cases:

First—When it shall willfully charge, demand, or receive from any passenger, as his fare from one station or place to another, any greater sum than is specified as the fare between such stations or places, for the same class of passage and in the same direction, in its tariff of fares on file with the Commissioner of Transportation.

Second—When it shall willfully charge, demand, or receive from any person or persons, as the rate of freight on goods or merchandise, any greater sum than is specified as the rates for the like quantity of goods or merchandise of the same class, between the same places, and in the same direction, in its printed tariff of freights on file with said Commissioner.

Third—When it shall willfully charge, collect, or receive from any person or persons a greater amount of rate of toll, or compensation, than it shall at the same time charge, collect, or receive from any other persons for receiving, handling, storing, or delivering freight of the same class and like quantity at the same place.

Fourth—When it shall willfully charge, demand, or receive from any person or persons any greater sum for passage or freight than from any other person or persons, between the same places, in the same direction, for the same class of passage, or for the like quantity of goods of the same class.

Fifth—When it shall willfully charge, demand, or receive as compensation for receiving, storing, handling, or delivering, or for transporting any lot of goods or merchandise any greater sum than it shall, by or through any of its authorized agents, wherever situated, have agreed to charge for such services previously to the performance thereof.

Unjust discrimination. SEC. 2. A railroad company shall be deemed guilty of unjust discrimination in the following cases:

First—When it shall directly or indirectly willfully charge, demand, or receive from any person or persons any less sum

* Compare chapter seven, title thirteen, sections five hundred and eighteen to five hundred and twenty-five, of the Penal Code.

for passage or freight than from any other person or persons (except as in this Act herein provided), at the same time, between the same places, and the same direction, for the like class of passage, or for the like quantity of goods of the same class.

Second—When it shall directly or indirectly willfully charge, demand, or receive from any person or persons, as compensation for receiving, handling, storing, or delivering any lot of goods or merchandise, any less sum than it shall charge, collect, or receive from any other person for the like service, to a like quantity of goods of the same class, at the same place.

SEC. 3. It shall be unlawful for any such railroad company to grant free passes for travel within this State, except to the following persons: Free passes allowed; to whom.

First—Directors, officers, agents, and employes of the company, and their families.

Second—Officers, and agents, and railroad contractors of other railroads, and telegraph, express, stage, and steamboat or steamship companies.

Third—Destitute persons.

Fourth—The Commissioner of Transportation, and his Secretary and employes, when traveling in the discharge of their official duties.

Fifth—Public messengers, troops, and other persons who are, under existing laws, or any contract of such railroad company with this State, to be transported free of charge.

Every such railroad company shall keep a record of all free passes issued by it, except such as are issued by it to officers, agents, employes, and their families, and of the several classes thereof, and of the number of times each pass shall be used, and shall report the same to the Commissioner of Transportation whenever required.

SEC. 4. If any such railroad company shall be guilty of Penalties. extortion, as defined in section one of this chapter, it shall forfeit and pay to the person or persons aggrieved three times the amount of the damages sustained by him or them, together with the costs of suit, to be recovered in any Court of competent jurisdiction.

SEC. 5. If any such railroad company shall be guilty of unjust discrimination, as defined in section two of this chap-

Penalties. ter, it shall forfeit and pay the sum of one thousand dollars for each offense.

SEC. 6. If any such railroad company issues free passes to any person or persons, other than those specified in section three of this chapter, or if any such company or any of its conductors shall permit any person whatever to travel free upon its cars, except upon the exhibition of free passes issued as provided in said section, such company or conductor shall forfeit and pay, for each offense, the sum of one hundred dollars.

SEC. 7. If any such railroad company refuses or neglects to comply with the award of the Commissioner, provided in section five of chapter one of this Act, it shall forfeit the sum of one hundred dollars per day from the time designated by the Commissioner for the completion of the work required until such work shall be actually completed.

SEC. 8. If any such railroad corporation neglects or refuses to file its tariff of freights and fares, as provided in section six, or to make its annual report, as provided in section seven of chapter one of this Act, it shall forfeit not less than one hundred nor more than one thousand dollars per day for each and every day of such neglect or refusal.

SEC. 9. Any person aggrieved thereby, who may be unable to obtain satisfaction from the proper officers of any railroad in this State, may report to the Commissioner of Transportation any violations of the provisions of this Act by any railroad company doing business therein, or by any of its officers, agents, or employes, and it shall be the duty of the Commissioner to make a prompt investigation of such charges.

**Duty
of District
Attorney.**

SEC. 10. Whenever it shall come to the knowledge of the Commissioner that the provisions of this Act have been violated by any railroad company, and the facts in his judgment warrant a prosecution therefor, he shall immediately give notice thereof to the District Attorney of the county in which such violation occurred, and it is hereby made the duty of such District Attorney to commence and prosecute, in a Court of competent jurisdiction, an action against any railroad company that shall have been guilty of such violation.

**Fines,
etc ; how
recovered.**

SEC. 11. All fines, forfeitures, and penalties for violations of the provisions of this Act herein provided shall be recovered by action in the name of the people of the State of

California. Such action shall be brought and prosecuted upon complaint of the Commissioner, or the person aggrieved, by the District Attorney of the county in which such violation occurred; and all moneys paid or recovered on account of such fines, penalties, and forfeitures shall be paid into the State treasury for the benefit of the public school. It is hereby made the duty of the Attorney-General to counsel, advise, and assist the Commissioner of Transportation, whenever he shall be requested by him so to do, concerning any and all actions, proceedings, matters, things, powers, liabilities, and duties arising under the provisions of this Act. He may also institute and prosecute any action or proceeding which may be necessary the more effectually to carry out the provisions of this Act, and he may at any time take control of or assist in the prosecution of any action or proceeding commenced by any District Attorney, as herein provided, whenever in his judgment the public interest will be subserved thereby.

Duty of
Attorney-
General.

CHAPTER III.—POLICE REGULATIONS.

*SECTION 1. In forming a train on any railroad no freight, merchandise, or lumber cars shall be placed in the rear of passenger cars, and if they or any of them shall be so placed, the officer or agent who so directed, or who knowingly suffered such arrangement of cars, and the conductor of the train, shall be guilty of a misdemeanor and shall be punished accordingly.

Misdemeanor.

SEC. 2. No company operating any railroad in this State shall, in carrying and transporting cattle, sheep, or swine, in car load lots, confine the same in cars for a longer period than thirty-six consecutive hours, without unloading for rest, water, and feeding, for a period of at least ten consecutive hours. In estimating such time of confinement, the period during which the animals have been confined without such rest on connecting roads from which they are received shall be computed. In case the owner or person in charge of such animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge the expense thereof to the owner or consignee, and retain a lien upon the animals therefor until the same is paid.

Period
of confining
animals.

* Compare section two hundred and ninety-two of the Penal Code.

Obstruction
of highway.

SEC. 3. When any freight train on any railroad shall stop in such a position as to obstruct the ordinary travel on any highway, for a longer period than ten minutes, the person having charge of such train shall cause it to be separated, so as to leave one street or highway open to its full width to accommodate the public travel; and any railroad company in whose employment any person shall be, who shall violate this section, shall forfeit and pay the sum of twenty-five dollars for each offense.

Misdemeanor.

SEC. 4. Whoever enters upon or crosses any railroad, at any private passway, which is inclosed by bars or gates, and neglects to leave the same securely closed after him, shall be guilty of a misdemeanor.

SEC. 5. Whoever shall lead, ride, drive, or conduct any beast along the track of a railroad, except where the railroad is built within the limits of the public highway, or who shall place, or having the right to prevent it, shall suffer any animal to be placed within the fences thereof for grazing or other purposes, shall be guilty of a misdemeanor.

Felony.

*SEC. 6. Any person who may be employed upon the railroad of any company in this State as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridgeward, flagman, or signalman, or who may have charge of the regulation or running of trains upon said railroad in any manner whatever, and who shall become or be intoxicated while engaged in the discharge of his duties, shall be guilty of a misdemeanor, and on conviction thereof shall be punished for each offense by a fine not exceeding five hundred dollars, or by imprisonment in a County Jail for a term not exceeding six months, or both, in the discretion of the Court having cognizance of the offense; and if any person so employed as aforesaid, by reason of such intoxication, shall do any act, or neglect any duty, which act or neglect shall cause the death of, or bodily injury to any person or persons, he shall be deemed guilty of a felony.

Appoint-
ment of
policemen.

SEC. 7. The Governor may, from time to time, upon the application of any railroad or steamboat company, commission, during his pleasure, one or more persons designated by such company, who, having been duly sworn, may act at its expense as policemen, with the powers of a Deputy Sheriff, upon the premises used by it in its business, or upon its cars

*Compare section three hundred and ninety-one of the Penal Code.

or vessels. The company designating such person shall be responsible civilly for any abuse of his authority.

SEC. 8. Every such policeman shall, when on duty, wear ^{Shield.} in plain view a shield bearing the words "Railroad Police," or "Steamboat Police," as the case may be, and the name of the company for which he is commissioned.

SEC. 9. Every person who shall fraudulently evade or attempt to evade the payment of his fare for traveling on any railroad shall be fined not less than five nor more than twenty dollars.

SEC. 10. An Act entitled an Act to provide for the ^{Repeal.} appointment of Commissioners of Transportation, to fix the maximum charges for freights and fares, and to prevent extortion and discrimination on railroads in this State, approved April third, eighteen hundred and seventy-six, is hereby repealed, and all other Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, so far as they conflict herewith.

SEC. 11. This Act shall take effect and be in force from and after its passage.

ADDITIONAL SECTIONS OF THE CODES

APPLICABLE TO RAILROADS AND RAILROAD CORPORATIONS.

NOTE.—The following sections were overlooked till too late to be inserted in their proper places among the extracts from the Codes.

EXTRACTS FROM THE POLITICAL CODE.

Powers and
duties of
Governor.

SECTION 380. In addition to those prescribed by the Constitution the Governor has the power and must perform the duties prescribed in this and the following sections:

6. He may require the Attorney-General or District Attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this State.

Contracts
construed
accordingly.

SEC. 3222. Contracts made within this State for work to be done, or for anything to be sold or delivered by weight or measure, must be construed according to the foregoing standards.*

Property
assessed at
full cash
value.

SEC. 3627. All property must be assessed at its full cash value.

Assessor to
require a
statement
containing
what.

SEC. 3629. He must exact from each person a statement in writing showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person;

2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member;

3. All property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent;

4. The county in which such property is situated, or in which it is liable to taxation;

*See sections three thousand two hundred and nine to three thousand two hundred and fifteen (pages 102 and 103).

5. An exact description of all lands, improvements, and personal property, including all vessels, steamers, and other water-craft, and deposits of money or gold dust, and the names of the persons with whom such deposits are made, and the places in which they may be found ;

6. All other facts required by the State Board of Equalization or by the Assessor.

Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer need not include such property in the statement made by him, but his statement must show the name of the person or officer who made the statement in which such property is included.

SEC. 3640. The owner or holder of stock in any firm or corporation, the entire capital or property whereof is assessed, must not be assessed individually for his stock in such firm or corporation.

Holder of
stock in
firm or
corporation.

SEC. 3641. The property of every firm and corporation must be assessed in the county where the property is situate, and must be assessed in the name of the firm or corporation.

Property
of firm or
corporation
assessed
where
situated.

SEC. 3663. Where the railroad of a railroad corporation lies in several counties, its rolling stock must be apportioned between them so that a portion thereof may be assessed in each county, and each county's portion must bear to the whole rolling stock the same ratio which the number of miles of the road in such county bears to the whole number of miles of such road lying in this State. The land occupied and claimed as the right of way, with the track and all the substructures and superstructures which support the same, must be assessed as a whole, and as real estate, without separating the same into lands and improvements, at a certain sum per mile. The improvements, other than the track and the substructures and superstructures which support the same, whether situated upon land occupied and claimed as the right of way, or on other lands, must be separately assessed. Water ditches constructed for mining, manufacturing, or irrigation purposes, and wagon or turnpike toll-roads, with all improvements attached to such properties, must be listed by the Assessor as real estate, and as a whole, without separating the land and the improvements, either in the description or valuation of the same. (Amendment,

Rolling
stock and
improve-
ments of
railroads,
how assessed.

approved March 30, 1874; Amendments 1873-4, 158; took effect sixtieth day from passage.)

Limitation
on powers;
loaning
credit,

SEC. 4004. No county must in any manner loan or give its credit to or in aid of any person unless it is expressly authorized by law so to do.

EXTRACTS FROM THE CIVIL CODE.

Instruments
to be ac-
knowledged,
except, etc.

SECTION 1161. Before an instrument can be recorded, unless it belongs to the class* provided for in either sections eleven hundred and fifty-nine, eleven hundred and sixty, twelve hundred and two, or twelve hundred and three, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its President or Secretary, or proved by a subscribing witness, or as provided in sections eleven hundred and ninety-eight and eleven hundred and ninety-nine, and the acknowledgment or proof certified in the manner prescribed by Article III of this chapter. (Amendment, approved March 30, 1874; Amendments 1873-4, 226; took effect July 1, 1874.)

Requisites
for acknowl-
edgments.

SEC. 1185. The acknowledgment of an instrument must not be taken, unless the officer taking it knows, or has satisfactory evidence, on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is the President or Secretary of such corporation.

Form of
acknowl-
edgment
by corpora-
tion.

SEC. 1190. The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

State of —, County of —, ss. On this — day of —, in the year —, before me (here insert the name and quality of the officer), personally appeared —, known to me (or proved to me on the oath of —) to be the President (or the Secretary) of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

*Judgments affecting title to possession of real property, authenticated by certificate of Clerk of Court in which judgments were rendered; letters patent from the United States or from State of California; when instrument improperly certified; and in case of action by interested party to obtain judgment of proof of an instrument.

EXTRACTS FROM CODE OF CIVIL PROCEDURE.

SECTION 411. The summons* must be served by delivering a copy thereof, as follows: Summons,
upon whom
served.

1. If the suit is against a corporation formed under the laws of this State: to the President or other head of the corporation, Secretary, Cashier, or managing agent thereof;

2. If the suit is against a foreign corporation, or a non-resident joint-stock company or association, doing business and having a managing or business agent, Cashier, or Secretary within this State: to such agent, Cashier, or Secretary.

SEC. 446. Every pleading must be subscribed by the party or his attorney; and when the complaint is verified, or when the State, or any officer of the State, in his official capacity, is plaintiff, the answer must be verified, unless an admission of the truth of the complaint might subject the party to a criminal prosecution, or unless an officer of the State, in his official capacity, is defendant. In all cases of a verification of a pleading, the affidavit of the party must state that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters, that he believes it to be true; and where a pleading is verified, it must be by the affidavit of a party, unless the parties are absent from the county where the attorney resides, or from some cause unable to verify it, or the facts are within the knowledge of his attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he must set forth in the affidavit the reasons why it is not made by one of the parties. When a corporation is a party, the verification may be made by any officer thereof. Verification
of pleadings.

SEC. 531. An injunction to suspend the general and ordinary business of a corporation cannot be granted except by the Court or a Judge thereof; nor can it be granted without due notice of the application therefor to the proper officers or managing agent of the corporation, except when the people of this State are a party to the proceeding. Injunction
to suspend
business of
corporation.

SEC. 541. The rights or shares which the defendant may have in the stock of any corporation or company, together with the interest and profit thereon, and all debts due such Shares of
stock and
debts due
defendant,
how at-
tached and
disposed of.

*In commencing civil actions.

defendant, and all other property in this State of such defendant not exempt from execution, may be attached, and, if judgment be recovered, be sold to satisfy the judgment and execution.

How real and personal property shall be attached.

SEC. 542. The Sheriff to whom the writ is directed and delivered, must execute the same without delay, and if the undertaking mentioned in section five hundred and forty be not given, as follows:

4. Stocks or shares, or interest in stocks or shares, of any corporation or company, must be attached by leaving with the President, or other head of the same, or the Secretary, Cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ.

Appointment of receiver.

SEC. 564. A receiver may be appointed by the Court in which an action is pending, or by the Judge thereof:

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

Appointment of receivers upon dissolution of corporations.

SEC. 565. Upon the dissolution of any corporation, the District Court of the county in which the corporation carries on its business, or has its principal place of business, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of the corporation, to take charge of the estate and effects thereof, and to collect the debts and property due and belonging to the corporation, and to pay the outstanding debts thereof, and to divide the moneys and other property that shall remain over, among the stockholders or members.

Definition of lien.

SEC. 1180. A lien is a charge imposed upon specific property, by which it is made security for the performance of an act.

What laborers, contractors, etc., may have liens.

SEC. 1183. Every person performing labor upon, or furnishing materials to be used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, or who performs labor in any mining claim, has a lien upon the same for the work or labor done or materials furnished by each, respectively, whether done or furnished at the instance of the owner of the building or other improvement,

or his agent; and every contractor, sub-contractor, architect, builder, or other person having charge of any mining, or of the construction, alteration, or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner for the purposes of this chapter. (Amendment, approved March 30, 1874; Amendments 1873-4, 409; took effect sixtieth day after passage.)

EXTRACTS FROM THE PENAL CODE.

SECTION 165. Every person who gives or offers a bribe to any member of any Common Council, Board of Supervisors, or Board of Trustees of any county, city, or corporation, with intent to corruptly influence such member in his action on any matter or subject pending before the body of which he is a member, and every member of either of the bodies mentioned in this section who receives or offers to receive any such bribe, is punishable by imprisonment in the State Prison for a term not less than one nor more than fourteen years, and is disqualified from holding any office in this State.

Bribing
members
of Common
Councils,
Boards of
Supervisors
or Trustees.

SEC. 348. Every captain or other person having charge of any steamboat used for the conveyance of passengers, or of the boilers and engines thereof, who, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, or any apparatus or machinery connected therewith, by which bursting or breaking human life is endangered, is guilty of a felony. (Amendment, approved March 30, 1874; Amendments 1873-4, 431; took effect July 1, 1874.)

Mismanage-
ment of
steamboats,
a felony.

SEC. 349. Every engineer or other person having charge of any steam-boiler, steam-engine, or other apparatus for generating or employing steam, used in any manufactory, railway, or other mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, or engine, or apparatus, or cause any other accident whereby human life is endangered, is guilty of a felony. (Amend-

Mismanage-
ment of
steam-boiler,
a felony.

ment, approved March 30, 1874; Amendments 1873-4, 431; took effect July 1, 1874.) .

Forgery of
public and
corporate
seals.

SEC. 472. Every person who, with intent to defraud another, forges or counterfeits the seal of this State, the seal of any public officer authorized by law, the seal of any Court of record, or the seal of any corporation, or any other public seal authorized or recognized by the laws of this State, or of any other State, government, or county, or who falsely makes, forges, or counterfeits any impression purporting to be an impression of any such seal, or who has in his possession any such counterfeited seal, or impression thereof, knowing it to be counterfeited, and willfully conceals the same, is guilty of forgery.

PROCEEDINGS AGAINST CORPORATIONS.

Summons
upon infor-
mation, etc.

SEC. 1390. Upon an information or presentment against a corporation, the Magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge, the time to be not less than ten days after the issuing of the summons.

Form of
summons.

SEC. 1391. The summons must be substantially in the following form:

COUNTY OF (as the case may be).

The People of the State of California to the (naming the corporation):

You are hereby summoned to appear before me at (naming the place), on (specifying the day and hour), to answer a charge made against you upon the information of A. B. (or the presentment of the grand jury of the county, as the case may be), for (designating the offense generally).

Dated at the city (or township) of —, this — day of —, eighteen —.

G. H., Justice of the Peace (or as the case may be).

When and
how served.

SEC. 1392. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the President or other head of the corporation, or to the Secretary, Cashier, or managing agent thereof.

Examina-
tion of the
charge.

SEC. 1393. At the appointed time in the summons, the Magistrate must proceed to investigate the charge in the

same manner as in the case of a natural person, so far as these proceedings are applicable.

SEC. 1394. After hearing the proofs, the Magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the deposition and certificate, as prescribed in section eight hundred and eighty-three.

Certificate of Magistrate and return thereof.

SEC. 1395. If the Magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in case of a natural person held to answer.

If Magistrate certify sufficient cause, grand jury to investigate.

SEC. 1396. If an indictment is found, the corporation may appear by counsel to answer the same. If it does not thus appear a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

Appearance and plea.

SEC. 1397. When a fine is imposed upon a corporation on conviction, it may be collected by virtue of the order imposing it, by the Sheriff of the county, out of its real and personal property, in the same manner as upon an execution in a civil action.

Fine on conviction, how collected.

APPENDIX.

APPENDIX A.

Compilation of Railroad Acts—General and Special—passed by the Legislature, State of California, 1850–1878.

NOTE.—When date of approval is enclosed in brackets [] indicates that Statute became law without signature of Governor by the operation of the constitutional provision.

The foot notes here given are explanatory of the Acts, and of the action taken under them. The numbers of the Acts and the notes explanatory thereof are identical.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
1. An Act concerning corporations, Chapters I, III, and VII [Amended by Acts approved March 17, 1851, and April 22, 1851; repealed by Act approved April 28, 1851.]	April 22, 1850--	1850	128	347
2. An Act to repeal the 174th section of an Act entitled "An Act concerning corporations" [Repealed by Act approved April 28, 1851.]	March 17, 1851--	1851	109	424
3. An Act to amend an Act concerning corporations, approved April 22, 1850 [Repealed by Act approved April 28, 1851.]	April 22, 1851--	1851	113	426
4. An Act to provide for the incorporation of railroad companies [Repeals Act approved April 22, 1850; supplemented by Act approved March 22, 1852; repealed by Act approved April 22, 1853.]	April 28, 1851--	1851	118	433
5. An Act to grant the right of way to the United States for railroad purposes	May 1, 1852----	1852	77	150
6. An Act supplemental to an Act entitled "An Act to provide for the incorporation of railroad companies, passed February * 28, 1851" [Repealed by Act approved April 22, 1853.]	March 22, 1852--	1852	99	172
7. An Act to provide for the incorporation of railroad companies [Repeals Act approved April 28, 1851; amended by Acts approved May 15, 1854; April 10, 1855; April 14, 1856; supplemented by Act approved April 11, 1857; supplemented and amended by Act approved April 26, 1858; amended by Act approved April 26, 1858; repealed by Act approved May 20, 1861.]	April 22, 1853--	1853	72	99
8. An Act amendatory of an Act entitled "An Act to provide for the incorporation of railroad companies," approved April 22, 1853 [Supplemented by Act approved April 11, 1857; supplemented and amended by Act approved April 26, 1858; repealed by Act approved May 20, 1861.]	May 15, 1854----	1854	61	82

* The title of Act as printed in the Statutes of 1852 reads as above. It undoubtedly refers to Act of April 22, 1851.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter --	Page ----
9. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies," passed April 22, 1853; [Supplemented by Act approved April 11, 1857; supplemented and amended by Act approved April 26, 1858; repealed by Act approved May 20, 1861.]	April 10, 1855..	1855	76	100
10. An Act to extend the time of commencing the construction of certain railroads herein mentioned....	April 25, 1855..	1855	118	144
11. An Act to authorize the Board of Trustees of the City of San Diego to convey to the President and Board of Directors of the San Diego and Gila Southern Pacific and Atlantic Railroad Company two leagues of the Pueblo lands, to aid in the construction thereof..... [Compare Acts approved May 2, 1861, and March 30, 1868.]	April 30, 1855..	1855	163	206
12. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies," passed April 22, 1853, and amended May 15, 1854, and amended April 10, 1855..... [Supplemented by Act approved April 11, 1857; supplemented and amended by Act approved April 26, 1858; amended by Act approved April 26, 1858; repealed by Act approved May 20, 1861.]	April 14, 1856..	1856	75	89
13. An Act supplementary to an Act entitled "An Act to provide for the incorporation of railroad companies," passed April 22, 1853, and to the several Acts amendatory thereto..... [Supplemented by Act approved April 26, 1858; repealed by Act approved May 20, 1861.]	April 11, 1857..	1857	173	197
14. An Act to authorize the Board of Supervisors of the County of Yuba to take and subscribe two hundred thousand dollars to the capital stock of a railroad company, and to provide for the payment of the same, and other matters relating thereto..... [Amended by Act approved March 21, 1862; compare Acts approved March 30, 1868, and April 4, 1870.]	April 28, 1857..	1857	243	296
15. An Act to authorize the Board of Supervisors in and for Butte County to issue the bonds of said county for an amount not to exceed two hundred and thirty thousand dollars, to be expended in constructing a railroad and wagon roads in said county, and to provide for the payment of said bonds.....	April 23, 1858..	1858	280	242
16. An Act to confer upon the San Francisco and Marysville Railroad Company, incorporated under the laws of this State, certain rights and privileges.... [Amended by Acts approved April 21, 1860; April	April 24, 1858..	1858	300	265

(10.) Marysville and Benicia National Railroad and the Pacific and Atlantic Railroad.

(14.) Amount subscribed in county bonds to San Francisco and Marysville Railroad, one hundred thousand dollars, as result of a compromise. See note to (168), Act approved April 4, 1870.

(15.) No bonds issued.

(16.) To build bridge across Sacramento River, and granting to railroad company certain swamp lands.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
23, 1861; and April 25, 1862; compare Acts approved April 8, 1863, and March 30, 1868.]				
17. An Act supplementary and amendatory to an Act entitled "An Act to provide for the incorporation of railroad companies," passed April 22, 1853, and to the several Acts amendatory and supplementary thereto ----- [Repealed by Act approved May 20, 1861.]	April 26, 1858--	1858	334	317
18. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies," passed April 22, 1853, and an Act amendatory thereof, passed April 14, 1856 ----- [Repealed by Act approved May 20, 1861.]	April 26, 1858--	1858	341	326
19. An Act to authorize the Board of Supervisors of the County of Sutter to take and subscribe fifty thousand dollars to the capital stock of the "San Francisco and Marysville Railroad Company," and to provide for the payment of the same, and other matters relating thereto -----	April 15, 1859--	1859	241	247
20. An Act to authorize the "San Francisco and Marysville Railroad Company" to construct and maintain a railroad bridge across Feather River, and for other purposes -----	April 15, 1859--	1859	248	255
21. An Act to authorize the counties of the State of California to become stockholders in railroad companies ----- [Amended by Act approved April 18, 1860.]	April 16, 1859--	1859	262	263
22. An Act to authorize the Board of Supervisors of the County of Solano to take and subscribe two hundred thousand dollars to the capital stock of the "San Francisco and Marysville Railroad Company," and to provide for the payment of the same, and other matters relating thereto ----- [Amended by Act approved January 31, 1866; amended and supplemented by Act approved March 26, 1868.]	April 16, 1859--	1859	263	266
23. An Act to authorize the Board of Supervisors of the County of Yolo to take and subscribe fifty thousand dollars to the capital stock of the San Francisco and Marysville Railroad Company, and to provide for the payment of the same, and other matters relating thereto -----	April 16, 1859--	1859	264	270
24. An Act for the payment of the current and necessary expenses of the Pacific Railroad Convention..	Feb. 15, 1860--	1860	58	33
25. An Act to authorize the County of Butte to purchase and hold two hundred thousand dollars of the first mortgage bonds of the California North-				

(19.) No subscription made.

(21.) To an amount not exceeding five per cent. of taxable property of county.

(22.) Amount subscribed in county bonds, two hundred thousand dollars.

(23.) No subscription made.

(25.) Amount of county bonds issued, two hundred thousand dollars.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter --	Page -----
ern Railroad Company, and to issue the bonds of the county for the payment of the same, and for other purposes connected therewith----- [Amended by Act approved March 29, 1860. Compare Acts approved April 8, 1863, and March 20, 1866.]	March 14, 1860..	1860	122	90
26. An Act amendatory of and supplementary to an Act entitled "An Act to authorize the County of Butte to purchase and hold two hundred thousand dollars of the first mortgage bonds of the California Northern Railroad Company, and to issue the bonds of the county for the payment of the same, and for other purposes connected therewith"----- [Amendatory and supplementary to Act approved March 14, 1860.]	March 29, 1860..	1860	164	133
27. An Act to amend "An Act to authorize the counties of the State of California to become stockholders in railroad companies," approved April 16, 1859----	April 18, 1860..	1860	240	208
28. An Act to amend an Act entitled "An Act to confer upon the San Francisco and Marysville Railroad Company, incorporated under the laws of this State, certain rights and privileges," approved April 24, 1858.-----	April 21, 1860..	1860	248	218
29. An Act to authorize the Board of Supervisors of the County of San Mateo to subscribe to the capital stock of the San Francisco and San José Railroad Company-----	April 21, 1860..	1860	260	230
30. An Act to authorize the Board of Supervisors of the City and County of San Francisco to subscribe to the capital stock of the San Francisco and San José Railroad Company-----	April 21, 1860..	1860	262	233
31. An Act to authorize the Town of Auburn to take and subscribe fifty thousand dollars to the capital stock of the Sacramento, Placer, and Nevada Railroad Company, and to provide for the payment of the same.-----	April 23, 1860..	1860	272	254
32. An Act to authorize the Board of Supervisors of the County of Santa Clara to subscribe to the capital stock of the San Francisco and San José Railroad Company-----	April 21, 1860..	1860	280	261
33. An Act to provide for the construction of a railroad from a point on Petaluma Creek into the City of Petaluma, and for the right of way for the same.... [Amended by Act approved May 17, 1861.]	April 25, 1860..	1860	284	265

(29.) Amount authorized, one hundred thousand dollars. No subscription made.

(30.) Amount authorized, six hundred thousand dollars. No subscription made.

(31.) No subscription made.

(32.) Amount authorized, two hundred thousand dollars. No subscription made.

(33.) Right granted to Joseph Nougues and associates.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter -----	Page -----
34. An Act to enable the County of Placer to subscribe for stock to the Sacramento, Placer, and Nevada Railroad Company, to the Eastern Extension Railroad Company, and to assist in constructing certain wagon roads therein mentioned -----	April 30, 1860	1860	359	344
35. An Act to authorize the Board of Supervisors of the County of Santa Clara to take and subscribe two hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto ----- [Amended by Act approved May 6, 1862; compare Acts approved April 4, 1864; March 20, 1866; and March 30, 1868.]	April 9, 1861	1861	140	128
36. An Act to authorize the Board of Supervisors of the County of San Mateo to take and subscribe one hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto ----- [Compare Acts approved April 4, 1864, and January 29, 1866.]	April 9, 1861	1861	141	134
37. An Act to authorize the Board of Supervisors of the County of San Francisco to subscribe three hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto ----- [Compare Acts approved April 4, 1864, and March 30, 1868.]	April 19, 1861	1861	203	198
38. An Act to amend an Act entitled "An Act to confer upon the San Francisco and Marysville Railroad Company, incorporated under the laws of this State, certain rights and privileges," approved April 24, 1858 -----	April 23, 1861	1861	225	225
39. An Act granting to Wm. Fitzpatrick, and his associates, the right to construct a railroad in Contra Costa County ----- [Supplemented by Act approved May 3, 1861. Compare Act approved April 20, 1863.]	April 29, 1861	1861	260	264
40. An Act concerning the San Diego and Gila Southern Pacific and Atlantic Railroad Company, and to extend the time of performing certain acts ----- [Compare Acts approved April 30, 1855, and March 30, 1868.]	May 2, 1861	1861	268	270

(34.) Amount authorized, one hundred thousand dollars to Sacramento, Placer, and Nevada Railroad Company, and twenty-five thousand dollars to Eastern Extension Railroad Company. No subscription made.

(35.) Amount subscribed in county bonds, two hundred thousand dollars.

(36.) Amount subscribed in county bonds, one hundred thousand dollars. Principal and interest of these bonds were paid by railroad company.

(37.) Amount subscribed in county bonds, three hundred thousand dollars.

(40.) Extending time for completing railroad.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter -----	Page -----
41. An Act supplementary to an Act granting to Wm. Fitzpatrick, and his associates, the right to construct a railroad in Contra Costa County, approved April 29, 1861 -----	May 3, 1861 -----	1861	283	278
42. An Act granting the right of way over certain lands in this State, in the Counties of Alameda and San Joaquin -----	May 8, 1861 -----	1861	320	309
43. An Act to authorize the Mayor and Common Council of the City of Los Angeles to take and subscribe fifty thousand dollars to the capital stock of a railroad company, in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto -----	May 17, 1861 -----	1861	402	457
44. An Act to authorize the Board of Supervisors of the County of Los Angeles to take and subscribe one hundred thousand dollars for the construction of a railroad in said county, and to provide for the payment of the same, and other matters relating thereto -----	May 17, 1861 -----	1861	405	465
45. An Act amendatory of an Act to provide for the construction of a railroad from a point on Petaluma Creek into the City of Petaluma, and for a right of way for the same ----- [Amendatory of Act approved April 25, 1860.]	May 17, 1861 -----	1861	416	479
46. An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto ----- [Repeals Act approved April 22, 1853, and all Acts amendatory or supplementary thereto; amended by Acts approved May 6, 1862; May 14, 1862; April 27, 1863; March 20, 1866; March 30, 1868, and April 1, 1870.]	May 20, 1861 -----	1861	532	607
47. An Act granting to certain persons the right to construct and maintain a railroad through certain streets in the City of Oakland -----	May 20, 1861 -----	1861	536	656
48. An Act amendatory of an Act to authorize the Board of Supervisors of the County of Yuba to take and subscribe two hundred thousand dollars to the capital stock of a railroad company, and to provide for the payment of the same, and other matters relating thereto, approved April 28, 1857 -----	March 21, 1862 -----	1862	72	61
49. An Act to provide for the construction of a railroad from Mokelumne City to Woodbridge, in the County of San Joaquin ----- [Amended by Act approved March 30, 1868.]	March 27, 1862 -----	1862	107	97

(42.) Right granted to Joseph S. Kohn, John O'Brien, etc.

(43.) Railroad from San Pedro Bay to Los Angeles. No subscription made.

(44.) Railroad from San Pedro Bay to Los Angeles. No subscription made.

(47.) Right granted to Rodmond Gibbons, William Hillegass, and others named.

(49.) Right granted to H. E. Leonard.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
50. An Act to authorize the construction of a wharf at a point designated upon the south bank of the San Joaquin River -----	April 8, 1862---	1862	131	116
51. An Act to authorize the County of Placer to loan its credit to the Sacramento, Placer, and Nevada Railroad Company to the amount of one hundred thousand dollars ----- [Amended by Act approved May 14, 1862.]	April 8, 1862---	1862	136	120
52. An Act in relation to liens of mechanics and others. -- [Amended and supplemented by Act approved April 4, 1864.]	April 26, 1862--	1862	297	384
53. An Act to amend an Act entitled "An Act to confer upon the San Francisco and Marysville Railroad Company, incorporated under the laws of this State, certain rights and privileges," passed April 24, 1858 -----	April 25, 1862--	1862	304	421
54. An Act to authorize the Board of Managers of the Industrial School Department of the City and County of San Francisco to grant and convey to the San Francisco and San José Railroad Company the right of way for the construction of said road on and through the land belonging to the said Industrial School Department.-----	April 25, 1862--	1862	322	438
55. An Act to extend the time for the completion of the California Northern Railroad Company's road.-----	April 26, 1862--	1862	329	446
56. An Act to amend an Act entitled "An Act to authorize the Board of Supervisors of the County of Santa Clara to take and subscribe two hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto," approved April 9, 1861-----	May 6, 1862----	1862	374	494
57. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," approved May 20, 1861--	May 6, 1862----	1862	381	498
58. An Act to authorize the Board of Supervisors of the County of Yuba to issue bonds of said county to the California Central Railroad Company to the amount of one hundred thousand dollars.-----	May 12, 1862---	1862	404	530
59. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," approved May 20, 1861--	May 14, 1862---	1862	424	547
60. An Act to amend an Act entitled "An Act to authorize the County of Placer to loan its credit to the				

(50.) In connection with Pittsburg Railroad Company.

(51.) Loan not made.

(55.) Time extended till January 1, 1863, under conditions.

(58.) Bonds not issued.

APPENDIX A—Continued.

TITLE.	Approved	STATUTES.		
		Year	Chapter	Page
Sacramento, Placer, and Nevada Railroad Company to the amount of one hundred thousand dollars," approved April 8, 1862.....	May 14, 1862....	1862	427	549
61. An Act to authorize the Board of Supervisors of the County of San Joaquin to take and subscribe two hundred and fifty thousand dollars to the capital stock of the Western Pacific Railroad Company, and to provide for the payment of the same, and other matters relating thereto.....	March 21, 1863..	1863	77	80
62. An Act to authorize the Common Council of the City of Placerville to subscribe one hundred thousand dollars to the capital stock of the Placerville and Sacramento Valley Railroad Company, and to provide for the payment of the same, and other matters relating thereto.....	March 21, 1863..	1863	78	86
63. An Act to authorize the Board of Supervisors of the County of San Joaquin to take and subscribe one hundred thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto.....	March 26, 1863..	1863	97	102
64. An Act to authorize the Board of Supervisors of the County of El Dorado to subscribe two hundred thousand dollars to the capital stock of the Placerville and Sacramento Valley Railroad Company, and to provide for the payment of the same, and other matters relating thereto..... [Compare Acts approved April 4, 1864; March 30, 1874; April 1, 1876; and March 16, 1878.]	March 28, 1863..	1863	110	122
65. An Act to authorize the County of Placer to subscribe to the capital stock of the Central Pacific Railroad Company of California, and to provide for the payment of the same, and other matters relating thereto..... [Supplemented and amended by Act approved March 31, 1866.]	April 2, 1863....	1863	125	145
66. An Act to protect certain parties in and to a railroad survey to connect Portland, Oregon, with Marysville, California.....	April 6, 1863....	1863	155	186
67. An Act to authorize the California Central Railroad Company to hold an election.....	April 8, 1863....	1863	177	237
68. An Act to authorize the County of Butte to purchase and hold sixty-six thousand dollars of the first mortgage bonds of the California Northern Railroad Company, and to issue the bonds of said county for				

(61.) Subscription made by county of two hundred and fifty thousand dollars in county bonds, but railroad company refusing to deliver the stock, the county has brought suit for the same, and the litigation still continues, the company wishing to compromise for one hundred thousand dollars of bonds, but the county refuses to accept, still claiming the stock.

(63.) No subscription made.

(64.) Amount subscribed in county bonds, two hundred and fifty thousand dollars.

(65.) Amount subscribed in county bonds, two hundred and fifty thousand dollars. Bonds issued October 1, 1863; railroad company's stock sold at par April 13, 1870.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
the payment of the same, and for other purposes connected therewith----- [Compare Acts approved March 14, 1866, and March 20, 1866.]	April 8, 1863---	1863	178	237
69. An Act to extend the time for the completion of the San Francisco and Marysville Railroad----- [Compare Act approved April 24, 1858.]	April 8, 1863---	1863	179	240
70. An Act to authorize the Board of Supervisors of the County of Santa Clara to take and subscribe one hundred and fifty thousand dollars to the capital stock of the Western Pacific Railroad Company, and to provide for the payment of the same, and other matters relating thereto----- [Amended by Act approved February 21, 1872; compare Act approved March 3, 1866.]	April 14, 1863---	1863	207	276
71. An Act granting certain rights to the Central Pacific Railroad of California, and for other purposes-----	April 14, 1863---	1863	209	288
72. An Act to authorize the Board of Supervisors of the County of Stanislaus to take and subscribe twenty-five thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto----- [Amended by Act approved March 31, 1866.]	April 17, 1863---	1863	237	310
73. An Act to authorize the relocation of the route of the railroad of the Central Pacific Railroad of California, and other matters relating thereto-----	April 17, 1863---	1863	244	320
74. An Act to extend the time for the completion of a railroad in Contra Costa County----- [Compare Act approved April 29, 1861.]	April 20, 1863---	1863	279	360
75. An Act to authorize the Board of Supervisors of the County of Alameda to take and subscribe two hundred and twenty thousand dollars to the capital stock of the Alameda Valley Railroad Company, and to provide for the payment of the same, and other matters relating thereto-----	April 21, 1863---	1863	285	365
76. An Act to authorize the Board of Supervisors of Butte County to loan certain money----- [Repealed by Act passed April 4, 1864.]	April 21, 1863---	1863	287	373

(69.) Time extended till October 26, 1865.

(70.) Amount subscribed in county bonds, one hundred and fifty thousand dollars; railroad company's stock sold August 19, 1872, for one hundred thousand dollars.

(71.) Right of way in City of Sacramento.

(72.) No subscription made.

(73.) To relocate route from Sacramento over Sierra Nevada Mountains.

(75.) No subscription made.

(76.) To loan to Oroville and Woodville Turnpike Company certain moneys in the Railroad Interest Fund of said county.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year	Chapter	Page
77. An Act to authorize the Board of Supervisors of the City and County of San Francisco to take and subscribe one million dollars to the capital stock of the Western Pacific Railroad Company, and Central Pacific Railroad Company of California, and to provide for the payment of the same, and other matters relating thereto..... [Compare Act approved April 4, 1864.]	April 22, 1863..	1863	291	380
78. An Act to authorize the City and County of Sacramento to subscribe to the capital stock of the Central Pacific Railroad Company of California, and providing for the payment of the same, and other matters relating thereto.....	April 25, 1863..	1863	310	447
79. An Act to aid the construction of the Central Pacific Railroad in the State of California, and other matters relating thereto..... [Repealed by Act approved April 4, 1864.]	April 25, 1863..	1863	314	465
80. An Act to provide for the construction of a railroad from Wilmington to Los Angeles, in the County of Los Angeles.....	April 25, 1863..	1863	332	494
81. An Act to authorize the San Francisco and Alameda Railroad Company to construct and maintain a wharf at the western end of the Encinal of San Antonio, in Alameda County..... [Supplemented and amended by Act approved March 28, 1868.]	April 25, 1863..	1863	341	499
82. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," approved May 20, 1861... [Amended by Act approved March 30, 1868.]	April 27, 1863..	1863	400	610
83. An Act to authorize the Board of Supervisors of the County of Calaveras to take and subscribe fifty thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto.....	April 27, 1863..	1863	418	673
84. An Act to authorize the Board of Supervisors of the County of Tuolumne to take and subscribe fifty thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto.....	April 27, 1863..	1863	419	679
(77.) Amount subscribed in city and county bonds, four hundred thousand dollars to Western Pacific Railroad Company, and six hundred thousand dollars to Central Pacific Railroad Company of California. Compromised, under Act approved April 4, 1864, for a subsidy granted in city and county bonds, as follows: Central Pacific Railroad Company of California, four hundred thousand dollars, and Western Pacific Railroad Company, two hundred and fifty thousand dollars.				
(78.) Amount subscribed in city and county bonds, three hundred thousand dollars; railroad stock sold in 1870 for two hundred and ten thousand dollars.				
(79.) Authorizing issue of State warrants for ten thousand dollars per mile, upon completion of certain lengths of road.				
(80.) Right granted to Manuel Dominguez, etc.				
(83.) No subscription made.				
(84.) No subscription made.				

APPENDIX A—Continued.

TITLE	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
85. An Act to grant the right to construct a wooden or iron railroad from the State Range Mountains, in the County of San Bernardino, to Kern River, in the County of Tulare-----	April 27, 1863--	1863	424	696
86. An Act to authorize the Sacramento, Placer, and Nevada Railroad Company to sell and convey their road, and other matters relating thereto-----	April 27, 1863--	1863	487	749
87. An Act to authorize the Board of Supervisors of Placer County to levy a special poll tax for county purposes-----	March 1, 1864--	1863-4	129	116
88. An Act to aid the construction of the Central Pacific Railroad, and to secure the use of the same to this State for military and other purposes, and other matters relating thereto [This Act repeals Act approved April 25, 1863.]	April 4, 1864--	1863-4	320	344
89. An Act regulating the assessment and taxation of railroads and other roads for revenue purposes, and other matters relating thereto [Repealed by Act approved March 27, 1868.]	April 4, 1864--	1863-4	325	357
90. An Act to authorize the Board of Supervisors of the County of El Dorado to subscribe one hundred thousand dollars, in addition to the amount heretofore subscribed by said county, to the capital stock of the Placerville and Sacramento Valley Railroad Company, and to provide for the payment of the same, and other matters relating thereto----- [Compare Act approved March 28, 1863.]	April 4, 1864--	1863-4	341	378
91. An Act to authorize the Board of Supervisors of the County of Napa to take and subscribe to the capital stock of the Napa Valley Railroad Company, and provide for the payment of the same, and other matters relating thereto----- [Amended by Act approved January 25, 1866; compare Acts approved April 2, 1866, and March 28, 1868.]	April 4, 1864--	1863-4	342	383
92. An Act to confer additional powers upon the Board of Supervisors of the City and County of San Francisco, and upon the Auditor and Treasurer thereof, and to authorize the appropriation of moneys by said Board----- [Compare Act approved April 22, 1863.]	April 4, 1864--	1863-4	344	388
(86.) To sell out to the Central Pacific Railroad Company of California.				
(87.) To pay interest on bonds issued to Central Pacific Railroad Company.				
(88.) Authorizes Central Pacific Railroad Company to issue not exceeding twelve million dollars of company bonds, secured by "mortgages on the railroad, rolling stock, buildings, machinery, fixtures, and corporate franchises of said company." State guarantees payment of interest on one million five hundred thousand dollars of said bonds, the same bearing interest at seven per cent. per annum, and payable twenty years from July 1, 1864.				
(90.) No subscription made.				
(91.) Authorizes county to subscribe one thousand dollars per mile for first five miles, and five thousand dollars per mile for each mile thereafter. Under this and the Act approved March 28, 1868, county subscribed in county bonds two hundred and fifty thousand dollars to the Napa Valley Railroad Company and the California Pacific Railroad Company.				
(92.) Authorizes a compromise with railroad company. See note to (77), Act approved April 22, 1863.				

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year	Chapter	Page
93. An Act to confer certain powers on the Boards of Supervisors of the Counties of Santa Clara and San Mateo and the City and County of San Francisco in relation to the interest and stock held by said counties and city and county in the San Francisco and San José Railroad.----- [Compare Acts approved April 9, 1861; April 9, 1861; April 19, 1861; January 29, 1866; March 20, 1866; March 30, 1868; and March 30, 1868.]	April 4, 1864---	1863-4	386	437
94. An Act amendatory and supplementary to an Act in relation to liens of mechanics and others, approved April 26, 1862.-----	April 4, 1864---	1863-4	411	465
95. An Act to aid in carrying out the provisions of the Pacific Railroad and Telegraph Act of Congress, and other matters relating thereto.-----	April 4, 1864---	1863-4	417	471
96. An Act authorizing the Yuba Railroad Company to change its northern terminus.-----	April 4, 1864---	1863-4	460	509
97. An Act to authorize the Board of Supervisors of Butte County to loan certain money.----- [This Act repeals Act approved April 21, 1863.]	[April 4, 1864]-	1863-4	475	533
98. An Act to amend an Act entitled "An Act to authorize the Board of Supervisors of the County of Napa to take and subscribe to the capital stock of the Napa Valley Railroad Company, and to provide for the payment of the same, and other matters relating thereto," approved April 4, 1864.-----	Jan. 25, 1866---	1865-6	41	25
99. An Act to confirm a certain contract for sale of stock held by the County of San Mateo in the San Francisco and San José Railroad Company.----- [Compare Acts approved April 9, 1861, and April 4, 1864.]	Jan. 29, 1866---	1865-6	53	36
100. An Act to amend an Act entitled "An Act to authorize the Board of Supervisors of the County of Solano to take and subscribe two hundred thousand dollars to the capital stock of the San Francisco and Marysville Railroad Company, to provide for the payment of the same, and other matters relating thereto," approved April 16, 1859.----- [Repealed by Act approved March 26, 1868.]	Jan. 31, 1866---	1865-6	63	46
101. An Act to authorize the County of Yuba to donate sixty-five thousand dollars to the Yuba Railroad Company, and to provide for the payment of the same, and other matters relating thereto.----- [Supplemented and amended by Act approved March 24, 1866.]	Feb. 13, 1866---	1865-6	95	75

(93.) Authorizes sale of railroad company's stock held by counties.

(96.) To or near Marysville.

(97.) To loan not exceeding eight thousand dollars of the Railroad Interest Fund to the Oroville and Woodville Turnpike Company.

(99.) Sale of railroad company's stock to H. M. Newhall, Peter Donahue, and C. B. Polhemus. This sale was not consummated. See note to (36), Act approved April 9, 1861.

(101.) Amount donated in county bonds, sixty-five thousand dollars.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter -----	Page -----
102. An Act to legalize and confirm a certain contract made between the County of Santa Clara and the Board of Supervisors thereof and the Western Pacific Railroad Company, bearing date March 28, 1865 ----- [Compare Acts approved April 14, 1863, and February 21, 1872.]	March 3, 1866.	1865-6	176	157
103. An Act to authorize the California Northern Railroad Company to hold an election -----	March 20, 1866.	1865-6	270	304
104. An Act granting to the Black Diamond Coal Mining Company the right to construct a tram-road or railroad, from the mines of said company, at Monte Diablo, to the San Joaquin River -----	March 20, 1866.	1865-6	275	307
105. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," approved May 20, 1861 -----	March 20, 1866.	1865-6	278	310
106. An Act to confirm a certain contract for the sale of stock held by the County of Santa Clara in the San Francisco and San José Railroad Company, and to give effect to the same ----- [Compare Acts approved April 9, 1861; April 4, 1864; and March 30, 1868.]	March 20, 1866.	1865-6	298	330
107. An Act to authorize the Board of Supervisors of Butte County to sell certain bonds, and to provide for the redemption of the bonds of the county, and for other purposes connected therewith ----- [Compare Acts approved March 14, 1860, and April 8, 1863.]	March 20, 1866.	1865-6	305	338
108. An Act supplementary and amendatory to an Act entitled "An Act to authorize the County of Yuba to donate sixty-five thousand dollars to the Yuba Railroad Company, and to provide for the payment of the same, and other matters relating thereto," approved February 13, 1866 -----	March 24, 1866.	1865-6	326	373
109. An Act to authorize H. B. Tichenor and R. G. Byxbee to construct a railroad and railroad wharf in Mendocino County ----- [Compare Act passed March 11, 1868.]	March 31, 1866.	1865-6	401	489
110. An Act to amend an Act entitled "An Act to authorize the Board of Supervisors of the County of Stanislaus to take and subscribe twenty-five thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide				

(102.) Contract granting, under certain conditions, the exclusive right to the Western Pacific Railroad Company to buy from the county the Western Pacific Railroad Company's stock held by county.

(106.) Contract between county and C. B. Polhemus, Peter Donahue, and H. M. Newhall. Stock sold to said parties for one hundred thousand dollars. See, also, (143), Act approved March 30, 1868.

(107.) To sell two hundred thousand dollars of bonds of California Northern Railroad Company. Sale never effected.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
for the payment of the same, and other matters relating thereto," approved April 17, 1863 ----- [Repealed by Act approved February 21, 1868.]	March 31, 1866.	1865-6	434	543
111. An Act to authorize James Nelson to extend his present line of railroad-----	March 31, 1866.	1865-6	446	568
112. An Act to authorize the construction of a tram-road or railroad in the County of Contra Costa----- [Amended and supplemented by Act approved March 30, 1868; compare Act approved March 30, 1868.]	March 31, 1866.	1865-6	447	569
113. An Act to allow the Western Pacific Railroad Company, and the San Francisco and San José Railroad Company, and other parties, the right to take gravel from the channel of Cayote Creek, in the County of Santa Clara -----	March 31, 1866.	1865-6	452	584
114. An Act supplementary and amendatory of an Act entitled "An Act to authorize the County of Placer to subscribe to the capital stock of the Central Pacific Railroad Company of California, and to provide for the payment of the same, and other matters relating thereto"----- [Supplements and amends Act approved April 2, 1863; amended by Act approved April 4, 1870.]	March 31, 1866.	1865-6	488	628
115. An Act granting to F. K. Shattuck, William Hille-gass, J. H. Haste, and C. Kirke, their associates or assigns, the right to construct and maintain a tram-road or railroad from the Central Coal Mine, at Monte Diablo, in Contra Costa County, to the San Joaquin River-----	April 2, 1866	1865-6	524	685
116. An Act to authorize the Board of Supervisors of the County of Calaveras to take and subscribe fifty thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto-----	April 2, 1866	1865-6	547	759
117. An Act concerning the Napa Valley Railroad Company, authorizing an election, and other matters relating thereto ----- [Compare Acts approved April 4, 1864, and March 28, 1868.]	April 2, 1866	1865-6	584	810
118. An Act to authorize all the counties south of Santa Clara County to aid in the construction of the Southern Pacific Railroad -----	April 2, 1866	1865-6	591	816
(112.) From Town of Martinez by Town of Pacheco and Walnut Creek House to boundary line of Amador County.				
(116.) No subscription made.				
(117.) Authorizing an election as to whether county will donate to Napa Valley Railroad Company the amount heretofore subscribed by county to stock of said company; and authorizing subscription not to exceed thirty thousand dollars to stock of said company. Subscription not made.				
(118.) Authorizing subscription to stock or donation, to amount not exceeding three per cent. of taxable property of county.				

APPENDIX A—Continued.

TITLE	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
119. An Act to legalize the location of the San Francisco and Alameda Railroad from Haywards to Washington Corners, in the County of Alameda.-----	Jan. 15, 1868.---	1867-8	7	5
120. An Act to authorize the Board of Supervisors of the County of Los Angeles to take and subscribe the sum of one hundred and fifty thousand dollars to the capital stock of the Los Angeles and San Pedro Railroad Company, in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto.----- [Amended and supplemented by Act approved March 25, 1868.]	Feb. 1, 1868.---	1867-8	24	14
121. An Act to authorize the Mayor and Common Council of the City of Los Angeles to take and subscribe seventy-five thousand dollars to the capital stock of the Los Angeles and San Pedro Railroad Company, in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto.----- [Amended and supplemented by Act approved March 25, 1868.]	Feb. 1, 1868.---	1867-8	25	20
122. An Act to repeal an Act entitled "An Act to amend an Act entitled an Act to authorize the Board of Supervisors of the County of Stanislaus to take and subscribe twenty-five thousand dollars to the capital stock of the Stockton and Copperopolis Railroad Company, and to provide for the payment of the same, and other matters relating thereto, approved April 17, 1863," approved March 31, 1866.-----	Feb. 21, 1868.---	1867-8	74	66
123. An Act authorizing the construction of a wharf in the County of Yolo, and to build a railroad in connection therewith.-----	[March 10, 1868]	1867-8	157	134
124. An Act to authorize H. B. Tichenor and R. G. Byxbee to construct a railroad, railroad wharf, and toll-bridge in Mendocino County.----- [Repeals Act approved March 31, 1866.]	[March 11, 1868]	1867-8	158	135
125. An Act to authorize Titus Hale, Austin Walrath, Win. McCall, and Richard P. Tenney, their associates and assigns, to construct a railroad from the City of Monterey to the Rancho Natividad, and to construct a wharf at the City of Monterey.-----	[March 11, 1868]	1867-8	159	137
126. An Act to authorize the County of Sutter to give its bonds to the California Pacific Railroad Company, a corporation organized and working by and under the general railroad laws of this State, and to provide for the payment of said bonds.---	March 13, 1868.	1867-8	176	155

(120.) Amount subscribed in county bonds, one hundred and fifty thousand dollars. This railroad company's stock was, in 1874, donated to Southern Pacific Railroad Company as subsidy.

(121.) Amount subscribed in county bonds, seventy-five thousand dollars. This railroad company's stock was, in 1874, donated to Southern Pacific Railroad Company as subsidy.

(123.) Woodland and Sacramento River Railroad.

(126.) No donation made.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter --	Page ----
127. An Act to authorize the County of Sonoma to donate bonds to a railroad company, and to provide for the payment of the same-----	March 18, 1868.	1867-8	197	189
128. An Act concerning railroad companies in the City and County of San Francisco-----	March 21, 1868.	1867-8	213	204
129. An Act to authorize the construction of a railroad from San José to Santa Clara, in the County of Santa Clara-----	[March 24, 1868]	1867-8	246	259
130. An Act to authorize the County of Yolo to give its bonds to the California Pacific Railroad Company, a corporation organized and working by and under the general railroad laws of this State, and to provide for the payment of said bonds-----	March 24, 1868.	1867-8	248	263
131. An Act amendatory of and supplementary to an Act to authorize the Mayor and Common Council of the City of Los Angeles to take and subscribe seventy-five thousand dollars to the capital stock of the Los Angeles and San Pedro Railroad Company, in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto, approved February 1, 1868-----	March 25, 1868.	1867-8	276	294
132. An Act amendatory of and supplementary to an Act to authorize the Board of Supervisors of the County of Los Angeles to take and subscribe the sum of one hundred and fifty thousand dollars to the capital stock of the Los Angeles and San Pedro Railroad Company, in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto, approved February 1, 1868-----	March 25, 1868.	1867-8	283	299
133. An Act amendatory of and supplementary to an Act entitled "An Act to authorize the Board of Supervisors of the County of Solano to take and subscribe two hundred thousand dollars to the capital stock of the San Francisco and Marysville Railroad Company, and to provide for the payment of the same, and other matters relating thereto," approved April 16, 1859, and to fund a part of the debt of said County of Solano, and other matters relating to said railroad company. [This Act repeals Act approved January 1, 1866.]-----	March 26, 1868.	1867-8	298	331
134. An Act granting Wm. W. Waddell and his assigns the right to maintain a wharf and railroad in Santa Cruz County-----	[March 26, 1868]	1867-8	301	342
135. An Act to repeal an Act entitled "An Act regulating the assessment and taxation of railroads and other				

(127.) Amount donated in county bonds to Sonoma County Railroad Company, California Pacific Railroad Company, and San Francisco and North Pacific Railroad Company, two hundred and sixty-seven thousand dollars.

(128.) Concerning width of way allowed railroad companies in the streets of said city and county.

(130.) Authorizing donation of one hundred thousand dollars. Donation not made.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
roads for revenue purposes, and other matters relating thereto," approved April 4, 1864 -----	March 27, 1868.	1867-8	335	404
136. An Act to authorize the Township Assessors of the Townships of White Oak and Mud Springs, in the County of El Dorado, to assess the property belonging to the Placerville and Sacramento Valley Railroad Company in said townships, in the year A. D. 1866, and to provide for the collection of the unpaid taxes thereon for said year -----	March 27, 1868.	1867-8	336	404
137. An Act supplementary to and amendatory of an Act entitled "An Act to authorize the San Francisco and Alameda Railroad Company to construct and maintain a wharf at the western end of the Encinal of San Antonio, in Alameda County," approved April 25, 1863.-----	March 28, 1868.	1867-8	355	427
138. An Act to authorize the California Pacific Railroad Company to extend its road to Suscol, in Napa County, and receive subscriptions to its capital stock, and other matters relating thereto ----- [Compare Acts approved April 4, 1864, and April 2, 1866.]	March 28, 1868.	1867-8	357	428
139. An Act to provide terminal depot grounds for the Terminal Central Pacific Railroad Company ----- [Supplemented and amended by Act approved March 31, 1870.]	March 28, 1868.	1867-8	386	473
140. An Act to provide for the transfer of certain funds in the County of Placer ----- [Amended by Act approved April 4, 1870.]	March 28, 1868.	1867-8	389	477
141. An Act to authorize the County of Contra Costa to donate bonds to the Martinez and Dansville Railroad Company, and to provide for the payment of the same ----- [Compare Act approved March 31, 1866.]	March 30, 1868.	1867-8	417	531
142. An Act to make certain Acts take effect immediately -----	March 30, 1868.	1867-8	423	538
143. An Act to confirm and legalize certain contracts entered into by Peter Donahue and others with the County of Santa Clara ----- [Compare Acts approved April 9, 1861; April 4, 1864; and March 20, 1866.]	March 30, 1868.	1867-8	437	559
144. An Act concerning the foreign miners' license tax in the County of Placer -----	March 30, 1868.	1867-8	439	563

(138.) See note to (91), Act approved April 4, 1864.

(139.) Not more than one hundred and fifty acres of tide lands on eastern shore of San Francisco Bay.

(140.) To transfer certain money from other funds to the Railroad Fund.

(141.) Amount authorized, fifty-four thousand dollars. No donation made.

(142.) Acts relative to Los Angeles City and Los Angeles County, approved March 25, 1868.

(143.) Contract for sale of San Francisco and San José Railroad Company's stock held by county. See note to

(106), Act approved March 20, 1866.

(144.) Fifty per cent. of said tax to be placed in Railroad Fund.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter -----	Page -----
145. An Act concerning the San Diego and Gila Southern Pacific and Atlantic Railroad Company, and to extend the time of performing certain acts ----- [Compare Acts approved April 30, 1855, and May 2, 1861.]	March 30, 1868.	1867-8	462	616
146. An Act amendatory of and supplementary to an Act to authorize the construction of a tram-road or railroad in the County of Contra Costa, passed March 31, 1866 -----	March 30, 1868.	1867-8	463	617
147. An Act authorizing the Board of Supervisors of Plumas County to take and subscribe to the capital stock of the Oroville and Virginia City Railroad Company, and to provide for the payment thereof ----- [Repealed by Act approved February 26, 1870.]	March 30, 1868.	1867-8	471	630
148. An Act to aid in giving effect to an Act of Congress relating to the California and Oregon Railroad Company -----	March 30, 1868.	1867-8	483	655
149. An Act to authorize the construction of a tram-road or railroad in the County of Santa Clara -----	March 30, 1868.	1867-8	484	656
150. An Act to amend an Act entitled "An Act to provide for the construction of a railroad from Mokelumne City to Woodbridge, in the County of San Joaquin," approved March 27, 1862 -----	March 30, 1868.	1867-8	485	657
151. An Act to authorize the construction of a railroad bridge across Napa Creek, at or near Suscol, in the County of Napa -----	March 30, 1868.	1867-8	493	663
152. An Act to confer upon the California Pacific Railroad Company, duly incorporated and working under the general railroad laws of this State, certain rights and privileges ----- [Compare Acts approved April 28, 1857; April 24, 1858; and April 4, 1870.]	March 30, 1868.	1867-8	499	671
153. An Act to aid in carrying out the provisions of an Act of Congress relating to the Stockton and Copperopolis Railroad Company -----	March 30, 1868.	1867-8	502	673
154. An Act to amend an Act entitled "An Act to amend an Act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto, approved May 20, 1861," approved April 27, 1863 -----	March 30, 1868.	1867-8	531	705

(145.) Time for completion of road extended to March 31, 1874.

(147.) Amount authorized, two hundred and thirty thousand dollars. No subscription made.

(149.) From Saratoga to Santa Clara, thence to a point at or near Alviso.

(151.) In connection with Sonoma County and Vallejo Railroad Company.

(152.) To transfer to California Pacific Railroad Company rights conferred upon San Francisco and Marysville Railroad Company, by Act approved April 24, 1868.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ---	Chapter ---	Page ---
155. An Act to confer power upon the Board of Supervisors of the City and County of San Francisco--- [Compare Acts approved April 19, 1861, and April 4, 1864.]	March 30, 1868.	1867-8	542	716
156. An Act to survey and dispose of certain salt marsh and tide lands belonging to the State of California--- [Compare Acts approved April 2, 1870, and March 6, 1872.]	March 30, 1868.	1867-8	543	716
157. An Act to repeal an Act entitled "An Act authorizing the Board of Supervisors of Plumas County to take and subscribe to the capital stock of the Oroville and Virginia City Railroad Company, and to provide for the payment thereof"----- [Repeals Act approved March 30, 1868.]	Feb. 26, 1870----	1869-70	107	102
158. An Act to transfer money from one fund to another in the County of Solano-----	March 28, 1870.	1869-70	315	414
159. An Act amendatory of and supplementary to an Act entitled "An Act to provide terminal depot grounds for the Terminal Central Pacific Railroad Company," approved March 28, 1868-----	March 31, 1870.	1869-70	381	525
160. An Act to empower the County of San Joaquin to aid in the construction of the Stockton and Visalia Railroad-----	March 31, 1870.	1869-70	387	532
161. An Act to empower the City of Stockton to aid in the construction of the Stockton and Visalia Railroad-----	April 1, 1870----	1869-70	396	551
162. An Act to amend an Act entitled "An Act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto," approved May 20, 1861-----	April 1, 1870----	1869-70	413	577
163. An Act to extend the time allowed to the Southern Pacific Railroad Company and the Western Pacific Railroad Company in which to make the terminus of their roads upon certain lands, donated to them by the State for that purpose, in the City and County of San Francisco----- [Compare Acts approved March 30, 1868, and March 6, 1872.]	April 2, 1870----	1869-70	461	669

(155.) To sell stock of San Francisco and San José Railroad Company held by city and county. Said stock—three hundred thousand dollars—was sold for one thousand dollars.

(156.) Authorizes donation of thirty acres of the salt marsh and tide lands in the City and County of San Francisco, to each of the Western Pacific and the Southern Pacific Railroad Companies, for depot purposes.

(158.) From Railroad Fund to Road Fund.

(159.) Prolongs time for performing certain acts two years.

(160.) Amount authorized, two hundred thousand dollars; amount subscribed in county bonds, eighty thousand dollars, as the result of a compromise.

(161.) Amount authorized, three hundred thousand dollars; amount subscribed in city bonds, one hundred and twenty thousand dollars, as the result of a compromise.

(163.) Extends time for performing certain acts eighteen months.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
164. An Act to authorize and empower the President and Trustees of the City of San Diego to donate lands to the San Diego and Los Angeles Railroad Company to aid in the construction of said railroad-----	April 2, 1870----	1869-70	473	696
165. An Act to empower the City and County of San Francisco to aid in the construction of the Southern Pacific Railroad, and other purposes-----	April 2, 1870----	1869-70	484	707
166. An Act to empower the Board of Supervisors of the several counties of the State to aid in the construction of a railroad in their respective counties----- [Supplemented by Act approved April 4, 1870; partially repealed by Act approved March 21, 1872; wholly repealed by Act approved January 14, 1874.]	April 4, 1870----	1869-70	507	746
167. An Act supplemental to "An Act to empower the Board of Supervisors of the several counties of the State to aid in the construction of a railroad in their respective counties," approved April 4, 1870----- [Partially repealed by Act approved March 21, 1872; wholly repealed by Act approved January 14, 1874.]	April 4, 1870----	1869-70	505	744
168. An Act to confer additional power upon the Board of Supervisors of Yuba County----- [Compare Acts approved April 28, 1857; April 24, 1858; and March 30, 1868.]	April 4, 1870----	1869-70	524	782
169. An Act to authorize the Board of State Harbor Commissioners to lease a portion of the water front in the City and County of San Francisco----	April 4, 1870----	1869-70	535	799
170. An Act to amend an Act entitled "An Act to provide for the transfer of certain funds in the County of Placer," approved March 28, 1868-----	April 4, 1870----	1869-70	542	807
171. An Act amendatory of an Act entitled "An Act supplementary and amendatory of an Act entitled an Act to authorize the County of Placer to subscribe to the capital stock of the Central Pacific Railroad Company of California, and to provide for the payment of the same, and other matters relating thereto," approved March 31, 1866-----	April 4, 1870----	1869-70	570	866

(164.) Not more than five thousand acres of pueblo lands to said railroad company.

(165.) Authorizes issuance of two hundred and fifty thousand dollars of city and county bonds to the Southern Pacific Railroad Company, upon completion of each of four sections of fifty miles of road from Gilroy south. No bonds ever issued.

(166.) Authorizes donation of county bonds to railroad company to an amount not exceeding five per cent. of taxable property of county.

(168.) Power to compromise with California Pacific Railroad Company; railroad company to be released from issuance of stock, and county from further issuance of county bonds. Under this Act, county ceased her subscription to California Pacific Railroad Company, the legal successor of San Francisco and Marysville Railroad Company (see Act approved March 30, 1868,) at the amount of one hundred thousand dollars.

(169.) To lease certain lands to Western Pacific Railroad Company.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
172. An Act to aid in giving effect to an Act of Congress relating to the Southern Pacific Railroad Company -----	April 4, 1870----	1869-70	579	883
173. An Act authorizing a telegraph between Los Angeles and Wilmington, in Los Angeles County -----	Feb. 13, 1872----	1871-2	90	87
174. An Act to confirm a certain contract for the sale of stock held by the County of Santa Clara in the Western Pacific Railroad Company, and to give effect to the same, and amendatory of an Act entitled "An Act to authorize the Board of Supervisors of the County of Santa Clara to take and subscribe one hundred and fifty thousand dollars to the capital stock of the Western Pacific Railroad Company, and to provide for the payment of the same, and other matters relating thereto," approved April 14, 1863 ----- [Compare Act approved February 21, 1872.]	Feb. 21, 1872----	1871-2	132	139
175. An Act to extend the time allowed to the Southern Pacific Railroad Company and the Western Pacific Railroad Company, in which to make the terminus of their roads upon certain lands donated to them by the State for that purpose in the City and County of San Francisco ----- [Compare Acts approved March 30, 1868, and April 2, 1870.]	March 6, 1872----	1871-2	217	282
176. An Act for the relief of the Central Pacific Railroad Company -----	March 20, 1872----	1871-2	318	432
177. An Act to repeal an Act entitled "An Act to empower the Board of Supervisors of the several counties of the State to aid in the construction of a railroad in their respective counties," approved April 4, 1870, and an Act entitled "An Act supplementary to an Act to empower the Board of Supervisors of the several counties of the State to aid in the construction of a railroad in their respective counties, approved April 4, 1870," approved April 4, 1870, except as to certain counties therein named ----- [Repealed by Act approved January 14, 1874.]	March 21, 1872----	1871-2	335	444
178. An Act to add additional sections to the Political Code (Sections 3663 and 3830) -----	March 27, 1872----	1871-2	417	586
179. An Act to repeal certain Acts herein named, known as the Five per cent. Subsidy Acts ----- [Repeals Acts approved April 4, 1870; April 4, 1870; and March 21, 1872.]	Jan. 14, 1874----	1873-4	26	26

(172.) Southern Pacific Railroad Company authorized to change route of its line.

(173.) Connected with Los Angeles and San Pedro Railroad.

(174.) Contract between said county and D. D. Colton for sale of Western Pacific Railroad Company stock to said D. D. Colton.

(175.) Time extended three months.

(176.) To correct an error in articles of incorporation of San Joaquin Valley Railroad Company.

(177.) Counties excepted: San Francisco, Santa Cruz, San Diego, Santa Barbara, San Luis Obispo, San Bernardino, Marin, and Los Angeles.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year -----	Chapter -----	Page -----
180. An Act granting to the Sierra Iron Company the right to construct a road in Sierra and Plumas Counties-----	March 11, 1874.	1873-4	239	341
181. An Act to legalize, ratify, and confirm Ordinance No. 38, entitled Charter Ordinance No. 38, granting right of way to the Texas and Pacific Railroad Company, and repealing Ordinance 35, passed and approved by the Board of Trustees of the City of San Diego on the 20th day of June, 1873-----	March 16, 1874.	1873-4	271	370
182. An Act to provide for the construction of a railroad from Colfax, in the County of Placer, to Nevada City, in the County of Nevada, and to regulate fares and freights thereon-----	March 20, 1874.	1873-4	336	492
183. An Act to provide for the construction of a railroad from the Bay of San Luis Obispo, in the County of San Luis Obispo, to Santa Maria, in the County of Santa Barbara----- [Supplemented by Act approved February 28, 1878.]	[March 27, 1874]	1873-4	464	695
184. An Act to authorize the City of Los Angeles to issue bonds in payment of certain indebtedness-----	March 27, 1874.	1873-4	497	724
185. An Act to provide for the construction of a railroad from Independence, in the County of Inyo, to the City of Los Angeles, Los Angeles County, and to regulate the fares and freights thereon-----	March 28, 1874.	1873-4	535	772
186. An Act to provide for the construction of a railroad from the City of Marysville, in the County of Yuba, to Knight's Landing, in the County of Yolo, and to regulate fares and freights thereon-----	March 28, 1874.	1873-4	545	780
187. An Act to create a Board of Auditors for El Dorado County, and fix the powers thereof----- [Amended by Acts approved April 1, 1876, and March 16, 1878; compare Act approved March 28, 1863.]	March 30, 1874.	1873-4	588	825
188. An Act to grant land for the right of way to the Arcata Transportation Company-----	March 25, 1876.	1875-6	346	486
189. An Act to provide for the redemption of the outstanding railroad bonds of Butte County-----	March 27, 1876.	1875-6	360	501

(182.) "Nevada County Narrow Gauge Railroad Company."

(183.) "San Luis Obispo and Santa Maria Valley Railroad Company."

(184.) In payment of certain lands granted to the Southern Pacific Railroad Company by Los Angeles. Amount of bonds authorized, not to exceed thirteen thousand five hundred dollars; amount of bonds issued, thirteen thousand dollars.

(185.) "Los Angeles and Independence Railroad Company."

(187.) Relative to the subscription, in county bonds, to the Placerville and Sacramento Valley Railroad Company's stock.

(188.) In Humboldt County; a railroad and wharf.

(190.) Supervisors of counties to compromise with Central Pacific Railroad Company as to taxes due from said railroad company for years 1872-3 and 1873-4.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter --	Page ----
190. An Act concerning certain taxes in the Counties of Placer and Nevada-----	March 31, 1876.	1875-6	436	621
191. An Act to amend an Act entitled "An Act to create a Board of Auditors for El Dorado County, and fix the powers thereof," approved March 30, 1874. [Amended by Act approved March 16,; 1878 compare Act approved March 28, 1863.]	April 1, 1876---	1875-6	464	681
192. An Act to authorize the Board of Supervisors of the County of Santa Cruz to arrange with the Santa Cruz Railroad Company to change its railroad so as to pass through the Town of Watsonville-----	April 1, 1876---	1875-6	480	725
193. An Act to provide for the appointment of Commissioners of Transportation, to fix the maximum charges for freights and fares, and to prevent extortion and discrimination on railroads in this State ----- [Repealed by Act approved April 1, 1878.]	April 3, 1876---	1875-6	515	783
194. An Act to levy taxes for county purposes, and to provide for the redemption of the bonded indebtedness of El Dorado County-----	April 1, 1876---	1875-6	465	684
195. An Act to provide for the payment of certain coupons -----	April 3, 1876---	1875-6	586	881
196. An Act supplementary to an Act entitled "An Act to provide for the construction of a railroad from the Bay of San Luis Obispo, in the County of San Luis Obispo, to Santa Maria, in the County of Santa Barbara" ----- [Supplementary to Act approved March 27, 1874.]	Feb. 28, 1878---	1877-8	105	114
197. An Act to amend an Act entitled "An Act to create a Board of Auditors for El Dorado County, and fix the powers thereof," approved March 30, 1874, and the Act amendatory thereof, approved April 1, 1876 -----	March 16, 1878.	1877-8	233	281
198. An Act to provide for the payment of certain coupons upon bonds issued to the Central Pacific Railroad Company, and known as State Aid Bonds---	March 19, 1878.	1877-8	274	335
199. An Act to provide for the construction of a railroad from the Town of Truckee, Nevada County, to Tahoe City, Lake Bigler, in Placer County, and to regulate fares and freights thereon -----	March 29, 1878.	1877-8	456	698
200. An Act to provide for the construction of a railroad from Lone, in the County of Amador, to a point in or near the Towns of Sutter Creek or Jackson, in said county, and to regulate fares and freights thereon-----	March 30, 1878.	1877-8	539	841

(191.) See note to (187) above.

(194.) Section five of this Act authorizes transfer to "Bond Redemption Fund," subject to specified uses, all moneys in the Railroad Redemption Fund.

(195.) Interest coupons on State Aid Bonds.

(196.) Time for completion of road extended four years from passage of Act.

(197.) See note to (187) above.

APPENDIX A—Continued.

TITLE.	Approved -----	STATUTES.		
		Year ----	Chapter ----	Page ----
201. An Act to enable railroad companies to complete their railroads-----	April 1, 1878---	1877-8	597	944
202. An Act imposing a tax on the issue of certificates of stock corporations-----	April 1, 1878---	1877-8	613	955
203. An Act to create the office of Commissioner of Transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freight on certain railroads, and to prevent extortion and unjust discrimination thereon----- [Repeals Act approved April 3, 1876.]	April 1, 1878---	1877-8	641	969

APPENDIX B.

Compilation of Resolutions, relative to railroads, passed by the Legislature, State of California, 1850-1878.

TITLE.	Approved	STATUTES.	
		Year	Page
1. Joint Resolution in relation to a national railroad from the Pacific Ocean to the Mississippi River.....	----- 1850	1850	465
2. Joint Resolution on the subject of the proposed overland railway from the Mississippi or Missouri River to the Pacific Ocean.....	----- 1852	1852	276
3. Joint Resolution in relation to a railroad from the Mississippi Valley to the Pacific Ocean.....	May 17, 1853---	1853	315
4. Joint Resolutions in relation to the Pacific Railroad ...	May 13, 1854---	1854	224
5. Concurrent Resolution concerning the Pacific Railroad.	Feb. 25, 1854---	1854	227
6. No. VII—Joint Resolution relative to a Pacific railroad	May 19, 1857---	1857	370
7. No. XXV—Concurrent Resolution	April 5, 1859---	1859	391
8. No. XXVIII—Concurrent Resolution asking Congress to donate to this State ten million acres of arable land in aid of her State Internal Improvement Fund	April 15, 1859--	1859	393
9. No. XXXI—A memorial asking Congress to pass a law authorizing the construction of a Pacific railroad; also asking for a grant of land to this State to aid in the construction of railroads in the State of California	April 15, 1859--	1859	395
10. No. XXVIII—Joint Resolution asking of Congress to cede to the State of California the odd sections of all public lands within this State, to be used by said State solely for railroad purposes	May 1, 1861----	1861	678
11. No. II—Concurrent Resolution relating to preventing issue of patents to public lands to the Central Pacific Railroad Company.....	Jan. 11, 1866---	1865-6	896
12. No. XVII—Concurrent Resolution relative to staying and issuing of patents for public lands to the Central Pacific Railroad Company	Jan. 30, 1866---	1865-6	901
13. No. XVIII—Memorial of the Legislature of California to the Congress of the United States, requesting that the Act of Congress of July 2, 1864, relative to grants to railroads, be amended	Jan. 30, 1866---	1865-6	901
14. No. V—Concurrent Resolution requesting General Government to pass a law authorizing State to select land from railroad lands for benefit of Agricultural College	Feb. 26, 1868---	1867-8	732

APPENDIX B—Continued.

TITLE.	Approved -----	STATUTES.	
		Year -----	Page -----
15. No. XIV—Concurrent Resolution relative to establishment of way mail offices on route of Central Pacific Railroad -----	March 26, 1868.	1867-8	738
16. No. XV—Concurrent Resolution asking aid of Congress for Oroville and Virginia City Railroad -----	March 26, 1868	1867-8	738
17. No. XXVI—Senate Joint Resolution and Memorial asking Congress to grant in favor of railroad between San Francisco and Missouri Valley, by southern route, certain aids, franchises, and loans -----	Feb. 28, 1868.---	1867-8	750
18. No. XXXI—Senate Concurrent Resolution asking Congress to grant aid to San Diego and Gila Southern Atlantic and Pacific Railroad Company -----	March 2, 1868.---	1867-8	752
19. No. XXXV—Senate Joint Resolution relating to railroad lands granted by Congress to this State.-----	March 13, 1868.	1867-8	753
20. No. IV—Memorial to Congress requesting the land now claimed by the Southern Pacific Railroad Company to be restored to settlement by preëmption -----	Dec. 22, 1869.---	1869-70	911
21. No. IV—Senate Joint Resolution No. 13, relating to restoration to the public domain of lands granted to the Folsom and Placerville Railroad Company -----	Jan. 8, 1874.---	1873-4	962
22. No. XIX—Assembly Concurrent Resolution No. 8, relative to lands granted the Stockton and Copperopolis Railroad Company -----	Feb. 4, 1874.---	1873-4	972
23. No. XXV—Assembly Concurrent Resolution No. 41, relative to the Central Pacific, the Western Pacific, and the California and Oregon Railway Companies.---	Feb. 13, 1874.---	1873-4	976
24. No. XXXI—Senate Joint Resolution No. 17, relative to the restoration of certain lands granted to the Atlantic and Pacific Railroad Company -----	Feb. 26, 1874.---	1873-4	980
25. No. XXXIII—Senate Concurrent Resolution No. 43, asking Congress to declare the meaning of the Joint Resolution of Congress of June 28, 1870, in reference to the reserve for a land grant to the Southern Pacific Railroad Company of California, and to restore certain lands in said reserve to the public domain -----	March 2, 1874.---	1873-4	981
26. No. XLI—Assembly Concurrent Resolution No. 31, relative to the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean -----	March 16, 1874.	1873-4	987
27. No. XIV—Senate Concurrent Resolution No. 19—Memorial to the Senate and House of Representatives of the United States, in Congress assembled, relative to lands granted to the Central and Western Pacific Railroad Companies.-----	Feb. 10, 1876.---	1875-6	943
28. No. XXX—Senate Joint Resolution No. 13, relating to the Atlantic and Pacific Railroad reserve.-----	March 11, 1876.	1875-6	951

RESOLUTIONS RELATIVE TO RAILROADS.

APPENDIX B—Continued.

TITLE.	Approved -----	STATUTES.	
		Year -----	Page -----
29. No. XLII—Assembly Concurrent Resolution No. 53, relative to grants of lieu lands to railroad companies.	March 29, 1876.	1875-6	957
30. Chap. XXXII—Assembly Joint Resolution No. 3, relative to subsidies and donations of public lands.-----	March 11, 1878.	1877-8	1071

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GENERAL INDEX.

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